

**HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 387**

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 509b, 40102, 40103, 40107, 70103, 81101,  
81123, 81127, and 81133 (MCL 324.509b, 324.40102, 324.40103,  
324.40107, 324.70103, 324.81101, 324.81123, 324.81127, and  
324.81133), sections 40102, 40103, and 40107 as added by 1995  
PA 57, sections 70103, 81123, 81127, and 81133 as added by 1995  
PA 58, and section 81101 as amended by 1997 PA 102.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

- 1       Sec. 509b. The MacMullan conference center shall be avail-  
2 able only to the following:
- 3       (a) The department.
- 4       (b) Federal, state, and local government agencies.
- 5       (c) Education institutions.

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1 (d) Nonprofit corporations or associations organized  
2 pursuant to the nonprofit corporation act, ~~Act No. 162 of the~~  
3 ~~Public Acts of 1982, being sections 450.2101 to 450.3192 of the~~  
4 ~~Michigan Compiled Laws~~ 1962 PA 162, MCL 450.2101 TO 450.3192.

5 (e) Community service clubs.

6 (f) ~~Handicapper groups~~ GROUPS OF PERSONS WITH  
7 DISABILITIES.

8 (g) Members of the legislature for purposes related to the  
9 business of the legislature.

10 (h) Entities and organizations that wish to use the confer-  
11 ence center to host an event that has a natural resources or  
12 environmental agenda.

13 Sec. 40102. (1) "Animals" means wild birds and wild  
14 mammals.

15 (2) "Bag limit" means the number of animals that may be  
16 taken and possessed as determined by the department.

17 (3) "Bow" means a device for propelling an arrow from a  
18 string drawn, held, and released by hand where the force used to  
19 hold the string in the drawn position is provided by the archer's  
20 muscles.

21 (4) "Buy" or "sell" means an exchange or attempt or offer to  
22 exchange for money, barter, or anything of value.

23 (5) "Chase" means to follow animals with dogs or other wild  
24 or domestic animals trained for that purpose.

25 (6) "DISABILITY" MEANS A DETERMINABLE PHYSICAL CHARACTERIS-  
26 TIC OF AN INDIVIDUAL THAT MAY RESULT FROM DISEASE, INJURY,  
27 CONGENITAL CONDITION OF BIRTH, OR FUNCTIONAL DISORDER.

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1       (7) ~~—(6)—~~ "Firearm" means a weapon from which a dangerous  
2 projectile may be propelled by using explosives, gas, or air as a  
3 means of propulsion. Firearm does not include a smooth bore  
4 rifle or handgun designed and manufactured exclusively for pro-  
5 pelling BB's not exceeding .177 caliber by means of a spring or  
6 air or gas.

7       Sec. 40103. (1) "Game" means any of the following animals:

- 8       (a) Badger.
- 9       (b) Bear.
- 10       (c) Beaver.
- 11       (d) Bobcat.
- 12       (e) Brant.
- 13       (f) Coot.
- 14       (g) Coyote.
- 15       (h) Crow.
- 16       (i) Deer.
- 17       (j) Duck.
- 18       (k) Elk.
- 19       (l) Fisher.
- 20       (m) Florida gallinule.
- 21       (n) Fox.
- 22       (o) Geese.
- 23       (p) Hare.
- 24       (q) Hungarian partridge.
- 25       (r) Marten.
- 26       (s) Mink.

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- 1 (t) Moose.
- 2 (u) Muskrat.
- 3 (v) Opossum.
- 4 (w) Otter.
- 5 (x) Pheasant.
- 6 (y) Quail.
- 7 (z) Rabbit.
- 8 (aa) Raccoon.
- 9 (bb) Ruffed grouse.
- 10 (cc) Sharptailed grouse.
- 11 (dd) Skunk.
- 12 (ee) Snipe.
- 13 (ff) Sora rail.
- 14 (gg) Squirrels.
- 15 (hh) Weasel.
- 16 (ii) Wild turkey.
- 17 (jj) Woodchuck.
- 18 (kk) Woodcock.
- 19 (ll) Virginia rail.

20 ~~(2) "Handicap" means a determinable physical characteristic~~  
21 ~~of an individual that may result from disease, injury, congenital~~  
22 ~~condition of birth, or functional disorder.~~

23 (2) ~~-(3)-~~ "Interim order of the department" means an order  
24 of the department issued under section 40108.

25 (3) ~~-(4)-~~ "Kind" means an animal's sex, age, or physical  
26 characteristics.

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1       (4) ~~—(5)—~~ "Open season" means the dates during which game  
2 may be legally taken.

3       (5) ~~—(6)—~~ "Parts" means any or all portions of an animal,  
4 including the skin, plumage, hide, fur, entire body, or egg of an  
5 animal.

6       (6) ~~—(8)—~~ "Protected" or "protected animal" means an animal  
7 or kind of animal that is designated by the department as an  
8 animal that shall not be taken.

9       Sec. 40107. (1) The department shall manage animals in this  
10 state. In managing animals, the department may issue orders to  
11 do all of the following:

12       (a) Make recommendations to the legislature regarding ani-  
13 mals that should be added or deleted from the category of game.

14       (b) Determine the kinds of animals that may be taken.

15       (c) Determine the animals or kinds of animals that are  
16 protected.

17       (d) Except as otherwise provided in section 40110, establish  
18 open seasons for taking or possessing game.

19       (e) Establish lawful methods of taking game.

20       (f) Establish lawful methods of taking game for persons who  
21 have certain ~~—handicaps—~~ DISABILITIES.

22       (g) Establish bag limits.

23       (h) Establish geographic areas within the state where cer-  
24 tain regulations may apply to the taking of animals.

25       (i) Determine conditions under which permits may be issued  
26 by the department.

1       (j) Establish fees for the issuing of permits by the  
2 department.

3       (k) Regulate the hours during which animals may be taken.

4       (l) Require that a person involved in a chase of an animal  
5 have in his or her possession a valid license that would autho-  
6 rize the taking of the animal being chased.

7       (m) Establish conditions under which animals taken or pos-  
8 sessed outside of this state may be imported into this state.

9       (n) Regulate the buying and selling of animals and parts of  
10 animals.

11       (o) Establish methods of taking animals that are primarily  
12 taken because of the value of their pelts, which methods supple-  
13 ment the lawful methods of taking such animals that exist on  
14 October 1, 1988.

15       (2) In exercising a power under this section, the department  
16 shall comply with the following procedures in a manner that  
17 assures adequate public notice, opportunity for public comment,  
18 and due regard for traditional methods and practices that were  
19 lawful prior to October 1, 1988:

20       (a) An order shall be prepared by the department after com-  
21 ments from department field personnel and interested persons have  
22 been solicited and considered.

23       (b) The order shall be on the department agenda for at least  
24 1 month prior to its consideration.

25       (c) The department shall provide an opportunity for public  
26 comment on the order.

1       (d) Except as otherwise provided in this subdivision, the  
2 department prior to issuance of an order shall provide a copy of  
3 each order to each member of the senate and the house of repre-  
4 sentatives standing committees that consider legislation pertain-  
5 ing to conservation, environment, recreation, tourism, and natu-  
6 ral resources. The members of the standing committees have 30  
7 days to review and submit comments to the department regarding an  
8 order. This subdivision shall not apply to an order that does  
9 not alter the substance of a lawful provision that exists in the  
10 form of a statute, rule, regulation, or order at the time the  
11 order is prepared.

12       (e) The department shall approve, reject, or modify the  
13 order.

14       (3) The department may revise an order issued pursuant to  
15 this section, and any revision of such an order shall comply with  
16 the procedure set forth in subsection (2).

17       (4) Not later than January 1, 1990, the commission shall  
18 issue orders pursuant to subsection (1) and file orders with the  
19 secretary of state that the commission considers sufficient to  
20 take the place of former ~~Act No. 286 of the Public Acts of 1929~~  
21 1929 PA 286. The orders filed with the secretary of state pursu-  
22 ant to this subsection shall indicate that the orders become  
23 effective upon filing with the secretary of state. Following the  
24 effective date of this part, the department shall undertake all  
25 of the powers given to the commission in former ~~Act No. 256 of~~  
26 ~~the Public Acts of 1988~~ 1988 PA 256.

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1       Sec. 70103. The state recreation and cultural arts section  
2 shall provide technical advice and guidance to the political  
3 subdivisions of this state and other interested groups and agen-  
4 cies in the planning and development of recreation programs,  
5 areas, and facilities including but not limited to creative and  
6 cultural activities, and programs for senior citizens, ~~the~~  
7 ~~handicapped~~ PERSONS WITH DISABILITIES, and the culturally  
8 deprived. The section shall collect and disseminate necessary  
9 data and information relating to its duties and shall maintain a  
10 cooperative relationship with the tourist, resort, and educa-  
11 tional extension services of the universities, the Michigan  
12 travel commission, Michigan's 4 regional tourist associations,  
13 and the various federal agencies.

14       Sec. 81101. As used in this part:

15       (a) "ATV" means a 3- or 4-wheeled vehicle designed for  
16 off-road use that has low-pressure tires, has a seat designed to  
17 be straddled by the rider, and is powered by a 50cc to 500cc gas-  
18 oline engine or an engine of comparable size using other fuels.

19       (b) "Code" means the Michigan vehicle code, 1949 PA 300, MCL  
20 257.1 to 257.923.

21       (c) "Dealer" means a person engaged in the sale, lease, or  
22 rental of an ORV as a regular business or, for purposes of sell-  
23 ing licenses under section 81116, any other person authorized by  
24 the department to sell licenses or permits, or both, under this  
25 act.

26       (d) "Designated" means posted open for ORV use with  
27 appropriate signs by the department.



1 (e) "Forest road" means a hard surfaced road, gravel or dirt  
2 road, or other route capable of travel by a 2-wheel drive 4-wheel  
3 conventional vehicle designed for highway use, except an inter-  
4 state, state, or county highway.

5 (f) "Forest trail" means a designated path or way capable of  
6 travel only by a vehicle less than 50 inches in width.

7 ~~(g) "Handicapper" means a person who has 1 or more of the~~  
8 ~~following physical characteristics:~~

9 ~~(i) Blindness.~~

10 ~~(ii) Inability to ambulate more than 200 feet without having~~  
11 ~~to stop and rest during any time of the year.~~

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

13 ~~(iv) Inability to ambulate without the prolonged use of a~~  
14 ~~wheelchair, walker, crutches, braces, or other device required to~~  
15 ~~aid mobility.~~

16 ~~(v) A lung disease from which the person's expiratory volume~~  
17 ~~for 1 second, when measured by spirometry, is less than 1 liter,~~  
18 ~~or from which the person's arterial oxygen tension is less than~~  
19 ~~60 mm/hg of room air at rest.~~

20 ~~(vi) A cardiovascular disease from which the person measures~~  
21 ~~between 3 and 4 on the New York heart classification scale, or~~  
22 ~~from which a marked limitation of physical activity causes~~  
23 ~~fatigue, palpitation, dyspnea, or anginal pain.~~

24 ~~(vii) Other diagnosed disease or disorder including, but not~~  
25 ~~limited to, severe arthritis or a neurological or orthopedic~~  
26 ~~impairment that creates a severe mobility limitation.~~

1       (G) ~~-(h)-~~ "Highway" means the entire width between the  
2 boundary lines of a way publicly maintained when any part of the  
3 way is open to the use of the public for purposes of vehicular  
4 travel.

5       (H) ~~-(i)-~~ "Highly restricted personal information" means an  
6 individual's photograph or image, social security number, digi-  
7 tized signature, and medical and disability information.

8       (I) ~~-(j)-~~ "Late model ORV" means an ORV manufactured in the  
9 current model year or the 5 model years immediately preceding the  
10 current model year.

11       (J) ~~-(k)-~~ "Manufacturer" means a person, partnership, corpo-  
12 ration, or association engaged in the production and manufacture  
13 of ORVs as a regular business.

14       (K) ~~-(l)-~~ "Operate" means to ride in or on, and be in actual  
15 physical control of, the operation of an ORV.

16       (L) ~~-(m)-~~ "Operator" means a person who operates or is in  
17 actual physical control of the operation of an ORV.

18       (M) ~~-(n)-~~ "ORV" or "vehicle" means a motor driven off-road  
19 recreation vehicle capable of cross-country travel without bene-  
20 fit of a road or trail, on or immediately over land, snow, ice,  
21 marsh, swampland, or other natural terrain. ORV or vehicle  
22 includes, but is not limited to, a multitrack or multiwheel drive  
23 vehicle, an ATV, a motorcycle or related 2-wheel, 3-wheel, or  
24 4-wheel vehicle, an amphibious machine, a ground effect air cush-  
25 ion vehicle, or other means of transportation deriving motive  
26 power from a source other than muscle or wind. ORV or vehicle  
27 does not include a registered snowmobile, a farm vehicle being

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1 used for farming, a vehicle used for military, fire, emergency,  
2 or law enforcement purposes, a vehicle owned and operated by a  
3 utility company or an oil or gas company when performing mainte-  
4 nance on its facilities or on property over which it has an ease-  
5 ment, a construction or logging vehicle used in performance of  
6 its common function, or a registered aircraft.

7 (N) ~~-(O)-~~ "Owner" means any of the following:

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

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

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

16 (O) "PERSON WITH DISABILITIES" MEANS A PERSON WHO HAS 1 OR  
17 MORE OF THE FOLLOWING PHYSICAL CHARACTERISTICS:

18 (i) BLINDNESS.

19 (ii) INABILITY TO AMBULATE MORE THAN 200 FEET WITHOUT HAVING  
20 TO STOP AND REST DURING ANY TIME OF THE YEAR.

21 (iii) LOSS OF USE OF 1 OR BOTH LEGS OR FEET.

22 (iv) INABILITY TO AMBULATE WITHOUT THE PROLONGED USE OF A  
23 WHEELCHAIR, WALKER, CRUTCHES, BRACES, OR OTHER DEVICE REQUIRED TO  
24 AID MOBILITY.

25 (v) A LUNG DISEASE FROM WHICH THE PERSON'S EXPIRATORY VOLUME  
26 FOR 1 SECOND, WHEN MEASURED BY SPIROMETRY, IS LESS THAN 1 LITER,

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1 OR FROM WHICH THE PERSON'S ARTERIAL OXYGEN TENSION IS LESS THAN  
2 60 MM/HG OF ROOM AIR AT REST.

3 (vi) A CARDIOVASCULAR DISEASE FROM WHICH THE PERSON MEASURES  
4 BETWEEN 3 AND 4 ON THE NEW YORK HEART CLASSIFICATION SCALE, OR  
5 FROM WHICH A MARKED LIMITATION OF PHYSICAL ACTIVITY CAUSES  
6 FATIGUE, PALPITATION, DYSPNEA, OR ANGINAL PAIN.

7 (vii) OTHER DIAGNOSED DISEASE OR DISORDER INCLUDING, BUT NOT  
8 LIMITED TO, SEVERE ARTHRITIS OR A NEUROLOGICAL OR ORTHOPEDIC  
9 IMPAIRMENT THAT CREATES A SEVERE MOBILITY LIMITATION.

10 (p) "Personal information" means information that identifies  
11 an individual, including an individual's driver identification  
12 number, name, address not including zip code, and telephone  
13 number, but does not include information on ORV operation or  
14 equipment-related violations or civil infractions, operator or  
15 vehicle registration status, accidents, or other  
16 behaviorally-related information.

17 (q) "Public agency" means the department or a local or fed-  
18 eral unit of government.

19 (r) "Roadway" means that portion of a highway improved, des-  
20 igned, or ordinarily used for vehicular travel. If a highway  
21 includes 2 or more separate roadways, the term roadway refers to  
22 a roadway separately, but not to all roadways collectively.

23 (s) "Route" means a forest road or other road that is desig-  
24 nated for purposes of this part by the department.

25 (t) "Safety education fund" means the safety education fund  
26 created under section 81118.

1       (u) "Safety chief instructor" means a person who has been  
2 certified by a nationally recognized ATV and ORV organization to  
3 certify instructors and to do on-sight evaluations of  
4 instructors.

5       (v) "Trail improvement fund" means the ORV trail improvement  
6 fund created pursuant to section 81117.

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

10       Sec. 81123. (1) The department shall, by October 1, 1991,  
11 develop a comprehensive plan for the management of ORV use of  
12 areas, routes, and trails maintained by or under the jurisdiction  
13 of the department or a local unit of government pursuant to sec-  
14 tion 81131. The plan shall, as a minimum, set forth the follow-  
15 ing methods and timetable:

16       (a) The inventorying, by appropriate means, of all areas,  
17 forest roads, and forest trails used by or suitable for use by  
18 ORVs.

19       (b) The identification and evaluation of the suitability of  
20 areas, forest roads, and forest trails to sustain ORV use.

21       (c) The designation of areas, forest roads, and forest  
22 trails for ORV use, including use by ~~handicappers~~ PERSONS WITH  
23 DISABILITIES.

24       (d) The development of resource management plans to maintain  
25 areas, forest roads, or forest trails and to restore or recon-  
26 struct damaged areas, forest roads, or forest trails. The plans

1 shall include consideration of the social, economic, and  
2 environmental impact of ORV use.

3 (e) Specifications for trails and areas.

4 (2) The plan developed under subsection (1) shall be revised  
5 every 2 years. The plan shall be submitted to the legislature  
6 for approval. The legislature shall approve the plan without  
7 amendment by concurrent resolution adopted by both standing com-  
8 mittees of the house of representatives and senate that consider  
9 natural resources matters and both houses of the legislature by  
10 recorded vote. The department shall submit any subsequent revi-  
11 sions to the plan to the secretary of the senate and the clerk of  
12 the house of representatives at least 20 session days before the  
13 effective date of the revisions. If both standing committees of  
14 the house of representatives and senate that consider natural  
15 resources matters fail to reject the revisions within those 20  
16 session days, the revisions shall be considered approved.

17 (3) The plan may designate where bicyclists, hikers, eques-  
18 trians, and other nonconflicting recreation trail users may use  
19 ORV trails or areas.

20 (4) By May 7, 1992, the department shall designate an appro-  
21 priate area in the northern Lower Peninsula and an appropriate  
22 area in southeast Michigan as a scramble area.

23 (5) Copies of maps of trails shall be prepared and made  
24 available by the department in sufficient quantities to accompany  
25 each ORV certificate of title issued by the secretary of state  
26 and to place in each county sheriff's office and each department  
27 of natural resources field office.

1       Sec. 81127. (1) Under the comprehensive system previously  
2 approved and implemented under former section 16d of ~~Act No. 319~~  
3 ~~of the Public Acts of 1975~~ 1975 PA 319, all state owned land  
4 under the jurisdiction of the department shall be closed to ORV  
5 use except designated routes, designated trails, and designated  
6 areas. The commission shall approve any subsequent revisions to  
7 the system and shall establish an effective date for the  
8 revisions. The department shall submit the revisions approved by  
9 the commission to the secretary of the senate and the clerk of  
10 the house of representatives at least 20 session days before the  
11 effective date determined by the commission. If both standing  
12 committees of the senate and the house of representatives that  
13 primarily consider issues pertaining to the protection of natural  
14 resources fail to reject the revisions within those 20 session  
15 days, the revisions shall be considered approved.

16       (2) In developing the system, the department shall consider  
17 the needs of hunters, senior citizens, and ~~handicappers~~ PERSONS  
18 WITH DISABILITIES.

19       Sec. 81133. A person shall not operate an ORV:

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

23       (b) Unless the person and any passenger in or on the vehicle  
24 is wearing on his or her head a crash helmet and protective eye-  
25 wear approved by the United States department of transportation.  
26 This subdivision does not apply if the vehicle is equipped with a  
27 roof that meets or exceeds standards for a crash helmet and the

1 operator and each passenger is wearing a properly adjusted and  
2 fastened safety belt.

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

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

15 (e) In a state game area or state park or recreation area,  
16 except on roads, trails, or areas designated for this purpose; on  
17 state owned lands under the control of the department other than  
18 game areas, state parks, or recreational areas where the opera-  
19 tion would be in violation of rules promulgated by the depart-  
20 ment; in a forest nursery or planting area; on public lands  
21 posted or reasonably identifiable as an area of forest reproduc-  
22 tion, and when growing stock may be damaged; in a dedicated natu-  
23 ral area of the department; or in any area in such a manner as to  
24 create an erosive condition, or to injure, damage, or destroy  
25 trees or growing crops. However, the department may permit an  
26 owner and guests of the owner to use an ORV within the boundaries  
27 of a state forest in order to access the owner's property.



1       (f) On the frozen surface of public waters within 100 feet  
2 of a person not in or upon a vehicle, or within 100 feet of a  
3 fishing shanty or shelter or an area that is cleared of snow for  
4 skating purposes, except at the minimum speed required to main-  
5 tain controlled forward movement of the vehicle, or as may be  
6 authorized by permit in special events.

7       (g) Unless the vehicle is equipped with a spark arrester  
8 type United States forest service approved muffler, in good work-  
9 ing order and in constant operation. Exhaust noise emission  
10 shall not exceed 86 Db(A) or 82 Db(A) on a vehicle manufactured  
11 after January 1, 1986, when the vehicle is under full throttle,  
12 traveling in second gear, and measured 50 feet at right angles  
13 from the vehicle path with a sound level meter which meets the  
14 requirement of ANSI S1.4 1983, using procedure and ancillary  
15 equipment therein described; or 99 Db(A) or 94 Db(A) on a vehicle  
16 manufactured after January 1, 1986, or that level comparable to  
17 the current sound level as provided for by the United States  
18 environmental protection agency when tested according to the pro-  
19 visions of the current SAE J1287, June 86 test procedure for  
20 exhaust levels of stationary motorcycles, using sound level  
21 meters and ancillary equipment therein described. A vehicle  
22 subject to this part, manufactured or assembled after  
23 December 31, 1972 and used, sold, or offered for sale in this  
24 state, shall conform to the noise emission levels established by  
25 the United States environmental protection agency under the noise  
26 control act of 1972, Public Law 92-574, 86 Stat. 1234.

1       (h) Within 100 feet of a dwelling at a speed greater than  
2 the minimum required to maintain controlled forward movement of  
3 the vehicle, except on property owned or under the operator's  
4 control or on which the operator is an invited guest, or on a  
5 roadway, forest road, or forest trail maintained by or under the  
6 jurisdiction of the department, or on an ORV access route as  
7 authorized by local ordinance.

8       (i) In or upon the lands of another without the written con-  
9 sent of the owner, owner's agent or lessee, when required by  
10 part 731. The operator of the vehicle is liable for damage to  
11 private property, including, but not limited to, damage to trees,  
12 shrubs, growing crops, or injury to living creatures or damage  
13 caused through vehicle operation in a manner so as to create ero-  
14 sive or other ecological damage to private property. The owner  
15 of the private property may recover from the person responsible  
16 nominal damages of not less than the amount of damage or injury.  
17 Failure to post private property or fence or otherwise enclose in  
18 a manner to exclude intruders or of the private property owner or  
19 other authorized person to personally communicate against tres-  
20 pass does not imply consent to ORV use.

21       (j) In an area on which public hunting is permitted during  
22 the the regular November firearm deer season from 7 a.m. to 11  
23 a.m. and from 2 p.m. to 5 p.m., except during an emergency or for  
24 law enforcement purposes, to go to and from a permanent residence  
25 or a hunting camp otherwise inaccessible by a conventional  
26 wheeled vehicle, to remove a deer, elk, or bear from public land  
27 which has been taken under a valid license; or except for the

1 conduct of necessary work functions involving land and timber  
2 survey, communication and transmission line patrol, and timber  
3 harvest operations; or on property owned or under control of the  
4 operator or on which the operator is an invited guest. A hunter  
5 removing game pursuant to this subdivision shall be allowed to  
6 leave the designated trail or forest road only to retrieve the  
7 game and shall not exceed 5 miles per hour. A vehicle registered  
8 under the code is exempt from this subdivision while operating on  
9 a public highway or public or private road capable of sustaining  
10 automobile traffic. A person holding a valid permit to hunt from  
11 a standing vehicle issued pursuant to part 401, or a  
12 ~~handicapper~~ PERSON WITH DISABILITIES using an ORV to access  
13 public lands for purposes of hunting or fishing through use of a  
14 designated trail or forest road, is exempt from this  
15 subdivision.

16 (k) While transporting on the vehicle a bow unless unstrung  
17 or encased, or a firearm unless unloaded and securely encased, or  
18 equipped with and made inoperative by a manufactured keylocked  
19 trigger housing mechanism.

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

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

24 (n) On an operating or nonabandoned railroad or railroad  
25 right-of-way, or public utility right-of-way, other than for the  
26 purpose of crossing at a clearly established site intended for  
27 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 established in sec-  
3 tion 81127.

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

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

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

11 (r) In a manner contrary to operating regulations on public  
12 lands.

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

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

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

22 (t) While transporting any passenger in or upon an ORV  
23 unless the manufacturing standards for the vehicle make provi-  
24 sions for transporting passengers.

25 (u) On adjacent private land, in an area zoned residential,  
26 within 300 feet of a dwelling at a speed greater than the minimum  
27 required to maintain controlled forward movement of the vehicle

**SB0387, As Passed House, February 25, 1998**

Senate Bill No. 387

21

1 except on a roadway, forest road, or forest trail maintained by  
2 or under the jurisdiction of the department, or on an ORV access  
3 route as authorized by local ordinance.