

**SUBSTITUTE FOR
SENATE BILL NO. 1020**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 81101, 81115, 81122, 81129, 81131, and 81133
(MCL 324.81101, 324.81115, 324.81122, 324.81129, 324.81131, and
324.81133), section 81101 as amended by 2012 PA 246, sections 81115
and 81129 as amended by 2008 PA 240, section 81122 as added by 1995
PA 58, section 81131 as amended by 2011 PA 107, 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) "Dealer" means a person engaged in the sale, lease, or
6 rental of an ORV as a regular business or, for purposes of selling
7 licenses under section 81116, any other person authorized by the
8 department to sell licenses or permits, or both, under this act.

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

12 (E) **"ELIGIBLE COUNTY" MEANS ANY OF THE FOLLOWING:**

13 (i) **OCEANA, NEWAYGO, MONTCALM, GRATIOT, SAGINAW, TUSCOLA, OR**
14 **SANILAC COUNTY OR A COUNTY LYING NORTH THEREOF, INCLUDING ALL OF**
15 **THE COUNTIES OF THE UPPER PENINSULA.**

16 (ii) **ST. CLAIR COUNTY.**

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

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

20 (ii) A vehicle used in connection with a farm operation as ~~that~~
21 ~~term is~~ defined in section 2 of the Michigan right to farm act,
22 1981 PA 93, MCL 286.472.

23 (G) ~~(f)~~-"Forest road" means a hard surfaced road, gravel or
24 dirt road, or other route capable of travel by a 2-wheel drive, 4-
25 wheel conventional vehicle designed for highway use, ~~except~~ **BUT**
26 **DOES NOT INCLUDE** an interstate, state, or county highway.

27 (H) ~~(g)~~-"Forest trail" means a designated path or way capable

1 of travel only by a vehicle less than 50 inches in width.

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

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

8 (K) ~~(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 (L) **"LOCAL UNIT OF GOVERNMENT" MEANS A COUNTY, TOWNSHIP, OR**
12 **MUNICIPALITY.**

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

16 (N) **"MUNICIPALITY" MEANS A CITY OR VILLAGE.**

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

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

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

24 (R) ~~(o)~~—"ORV" or, **UNLESS THE CONTEXT IMPLIES A DIFFERENT**
25 **MEANING,** "vehicle" means a motor-driven off-road recreation vehicle
26 capable of cross-country travel without benefit of a road or trail,
27 on or immediately over land, snow, ice, marsh, swampland, or other

1 natural terrain. ~~ORV or vehicle includes, but is not limited to, a~~
 2 **A** multitrack or multiwheel drive vehicle, ~~an ATV,~~ a motorcycle or
 3 related 2-wheel **VEHICLE**, **A** 3-wheel, 4-wheel, or 6-wheel vehicle, an
 4 amphibious machine, a ground effect air cushion vehicle, or other
 5 means of transportation ~~deriving motive power from a source other~~
 6 ~~than muscle or wind.~~ **MAY BE AN ORV. AN ATV IS AN ORV.** ORV or
 7 vehicle does not include a registered snowmobile, a farm vehicle
 8 being used for farming, a vehicle used for military, fire,
 9 emergency, or law enforcement purposes, a vehicle owned and
 10 operated by a utility company or an oil or gas company when
 11 performing maintenance on its facilities or on property over which
 12 it has an easement, a construction or logging vehicle used in
 13 performance of its common function, or a registered aircraft.

14 **(S) "ORV SAFETY CERTIFICATE" MEANS AN ORV SAFETY CERTIFICATE**
 15 **ISSUED UNDER SECTION 81130 OR A COMPARABLE SAFETY CERTIFICATE**
 16 **ISSUED UNDER THE AUTHORITY OF ANOTHER STATE OR A PROVINCE OF**
 17 **CANADA.**

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

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

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

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

27 **(U)** ~~(q)~~—"Person with a disability" means ~~a person~~ **AN**

1 **INDIVIDUAL** who has 1 or more of the following physical
2 characteristics:

3 (i) Blindness.

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

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

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

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

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

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

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

1 vehicle registration status, accidents, or other behaviorally-
2 related information.

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

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

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

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

15 (AA) ~~(w)~~—"Visual supervision" means the direct observation of
16 the operator with the unaided or normally corrected eye, where the
17 observer is able to come to the immediate aid of the operator.

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

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

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

26 (c) ~~Except as otherwise provided in section 81102, on~~ **ON** the
27 maintained portion of a road, ~~or~~ street, **OR HIGHWAY.**

1 (2) ~~License~~ AN ORV is not required for an TO BE LICENSED
2 UNDER THIS PART UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:

3 (A) THE ORV IS used exclusively in a safety and training
4 program as required in section 81129.

5 (B) THE ORV IS REGISTERED UNDER THE CODE OR IS A VEHICLE
6 REGISTERED UNDER PART 801, UNLESS THE VEHICLE IS OPERATED AS AN
7 ORV OFF HIGHWAYS, ROADWAYS, STREETS, AND FOREST ROADS.

8 (C) THE ORV IS OPERATED SOLELY ON PRIVATE PROPERTY BY THE
9 OWNER OF THE PROPERTY, A FAMILY MEMBER OF THE OWNER, OR AN
10 INVITED GUEST OF THE OWNER.

11 (D) THE ORV IS LICENSED IN ANOTHER STATE AND IS ONLY
12 OPERATED IN THIS STATE IN GOGEBIC, IRON, DICKINSON, AND
13 MENOMINEE COUNTIES SOUTH OF U.S. ROUTE 2.

14 (E) THE ORV IS BEING OPERATED ON A FREE ORV-RIDING DAY. THE
15 DEPARTMENT SHALL DESIGNATE 1 SATURDAY AND THE FOLLOWING SUNDAY EACH
16 YEAR AS FREE ORV-RIDING DAYS. IN ADDITION, THE DEPARTMENT MAY
17 DESIGNATE 1 OTHER DAY OR 2 OTHER CONSECUTIVE DAYS EACH YEAR AS FREE
18 ORV-RIDING DAYS. THE FREE ORV-RIDING DAYS SHALL CORRESPOND TO FREE
19 FISHING DAYS TO THE EXTENT THAT FREE FISHING DAYS ARE DESIGNATED
20 UNDER SECTION 43534. A PERSON OPERATING AN UNLICENSED ORV DURING A
21 FREE ORV-RIDING DAY HAS THE SAME PRIVILEGES AND IS SUBJECT TO THE
22 SAME RULES AND REGULATIONS AS A PERSON OPERATING AN ORV LICENSED OR
23 REQUIRED UNDER SUBSECTION (1).

24 Sec. 81122. (1) A person shall not operate an ORV that is not
25 registered under the code upon a public highway, street, or right-
26 of-way of a public highway or street, except as provided in section
27 81131 or under the following conditions and circumstances:

1 (a) The operator of a vehicle may cross a public highway,
2 other than a limited access highway, at right angles, for the
3 purpose of getting from 1 area to another, if the operation can be
4 done in safety. The operator shall bring the vehicle to a complete
5 stop before proceeding across a public highway, and shall yield the
6 right-of-way to oncoming traffic.

7 (b) A vehicle may be operated on a street or highway for a
8 special event of limited duration and conducted according to a
9 prearranged schedule only under permit from the governmental unit
10 having jurisdiction. ~~A-SUBJECT TO SUBSECTION (2), A~~ special event
11 involving ORVs may be conducted on the frozen surface of public
12 waters only under permit from the department.

13 (C) **AN ORV MAY BE OPERATED ON THE ROADWAY OR SHOULDER WHEN**
14 **NECESSARY TO CROSS A BRIDGE OR CULVERT IF THE ORV IS BROUGHT TO A**
15 **COMPLETE STOP BEFORE ENTERING ONTO THE ROADWAY OR SHOULDER AND THE**
16 **DRIVER YIELDS THE RIGHT-OF-WAY TO AN APPROACHING VEHICLE ON THE**
17 **HIGHWAY.**

18 (D) ~~(e)~~—A farmer, employee of a farmer, or family member of a
19 farmer who is at least 16 years of age may operate an ORV on the
20 extreme right side of a roadway or highway right-of-way when it is
21 not practicable to operate off that roadway or highway right-of-
22 way. Such operation shall be limited to traveling to or from the
23 farmer's residence or work location or field during the course of
24 farming operations. An ORV shall not be operated pursuant to this
25 subdivision during the period of 30 minutes before sunset to 30
26 minutes after sunrise, when visibility is substantially reduced due
27 to weather conditions, or in a manner so as to interfere with

1 traffic. The state transportation department and all of its
2 employees are immune from tort liability for injury or damages
3 sustained by any person arising in any way by reason of the
4 operation or use of an ORV for the limited purposes allowed under
5 this subdivision. An operator of an ORV under this subdivision
6 shall have attached to the ORV a flag made of reflective material.
7 The flag shall extend not less than 8 feet from the surface of the
8 roadway and not less than 4 feet above the top of the ORV. The flag
9 shall be not less than 12 inches high by 18 inches long and not
10 measure less than 100 square inches.

11 (2) THE DEPARTMENT SHALL NOT REQUIRE A PERMIT UNDER THIS PART
12 OR RULES PROMULGATED UNDER SECTION 504 FOR AN ORV EVENT ON THE
13 FROZEN SURFACE OF PUBLIC WATERS OR ON STATE-OWNED LANDS IF THE
14 NUMBER OF ORVS INVOLVED IS NOT MORE THAN 75 UNLESS THE EVENT
15 CONFLICTS WITH RULES THAT ARE NOT SPECIFICALLY RELATED TO ORV
16 EVENTS. THE DEPARTMENT MAY REQUIRE THE ORGANIZER OF SUCH AN EVENT
17 TO GIVE THE DEPARTMENT SUFFICIENT ADVANCE NOTICE TO ALLOW THE
18 DEPARTMENT TO COORDINATE THE EVENT WITH OTHER ORV-RIDING ACTIVITY
19 TO MINIMIZE CONFLICTS.

20 (3) ~~(2)~~—In a court action in this state where competent
21 evidence demonstrates that a vehicle that is permitted to operate
22 on a highway pursuant to the code is in a collision with an ORV on
23 a roadway, the operator of the ORV involved in the collision shall
24 be considered prima facie negligent.

25 Sec. 81129. (1) Subject to subsections (2), (3), **AND** (17), and
26 ~~(18)~~,—a parent or legal guardian of a child less than 16 years of
27 age shall not permit the child to operate an ORV unless the child

1 is under the direct visual supervision of an adult and the child
2 has in his or her immediate possession an ORV safety certificate
3 issued pursuant to this part or a comparable ORV safety certificate
4 issued under the authority of another state or a province of
5 Canada.

6 (2) Subject to subsection ~~(18)~~, **(17)**, a parent or legal
7 guardian of a child less than 12 years of age shall not permit the
8 child to operate a 4-wheeled ATV, unless the child is not less than
9 10 years of age and is on private land owned by a parent or legal
10 guardian of the child. This subsection does not apply to the
11 operation of an ATV used in agricultural operations.

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

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

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

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

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

8 (8) The department shall implement a comprehensive ~~ORV~~
9 ~~information, safety education, and training program that shall~~
10 ~~include~~ **PROGRAM FOR** the training of **ORV** operators and the
11 preparation and dissemination of **ORV** information and safety advice
12 to the public. The program shall provide for the training of
13 youthful operators and for the issuance of ORV safety certificates
14 to those who successfully complete the training ~~provided under the~~
15 ~~program~~ and may include separate instruction for each type of ORV.

16 (9) In implementing a program under subsection (8), the
17 department shall cooperate with private organizations and
18 associations, private and public corporations, the department of
19 education, the department of state, and local governmental units.
20 The department shall consult with ORV and environmental
21 organizations and associations in regard to the subject matter of a
22 training program and performance testing that leads to
23 certification of ORV operators.

24 (10) The department may designate a person it considers
25 qualified to provide course instruction and to award ORV safety
26 certificates.

27 (11) The department may promulgate rules to implement

1 subsections (8) to (10) and ~~(18)~~-(17).

2 (12) Subject to subsections (13), (14), **AND** (17), and ~~(18)~~, a
3 child who is less than 16 years of age shall not operate an ORV
4 unless the child is under the direct visual supervision of an adult
5 and the child has in his or her immediate possession an ORV safety
6 certificate issued pursuant to this section or a comparable ORV
7 safety certificate issued under the authority of another state or a
8 province of Canada.

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

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

17 (15) Subject to subsection ~~(18)~~-(17), when operating an ORV,
18 a child who is less than 16 years of age shall present the ORV
19 safety certificate to a peace officer upon demand.

20 (16) Notwithstanding any other provision of this section, an
21 operator who is less than 12 years of age shall not cross a highway
22 or street. An operator who is not less than 12 years of age but
23 less than 16 years of age may cross a highway or street or operate
24 on the right-of-way or shoulder of roads, ~~and streets~~, **AND HIGHWAYS**
25 on which ORV use is authorized pursuant to section 81131(2), (3),
26 ~~or~~-(5), (6), **OR** (7) if the operator has a valid ORV safety
27 certificate in his or her immediate possession and meets any other

1 requirements under this section for operation of the vehicle.

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

6 (17) ~~(18)~~—The requirement that a child possess an ORV safety
7 certificate to operate an ORV, and the requirement that a child who
8 is less than 12 years of age not operate a 4-wheeled ATV unless the
9 child is not less than 10 years of age and is on private land owned
10 by a parent or legal guardian of the child, do not apply if all of
11 the following requirements are met:

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

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

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

19 (d) A physician or physician's assistant licensed or otherwise
20 authorized under part 170 or 175 of the public health code, 1978 PA
21 368, MCL 333.17001 to 333.17084 and 333.17501 to 333.17556, or a
22 paramedic or emergency medical technician licensed under part 209
23 of the public health code, 1978 PA 368, MCL 333.20901 to 333.20979,
24 is present at the site of the event or available on call.

25 (e) The event is at all times under the direct visual
26 supervision of adult staff of the event organizer and a staff
27 member serves as a flagger to warn ORV riders if another ORV rider

1 is injured or an ORV is inoperable in the ORV operating area.

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

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

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

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

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

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

17 **(18)** ~~(19)~~—If a child less than 16 years of age participates
18 and is injured in an organized ORV riding or racing event, the
19 organizer of the event shall, within 30 days after the event,
20 submit to the department a report on a form developed by the
21 department. The report shall include all of the following, as
22 applicable:

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

26 (b) The age of the child.

27 (c) Whether the child had been issued an ORV safety

1 certificate under this part or a comparable ORV safety certificate
2 issued under the authority of another state or a province of
3 Canada.

4 (d) The type of ORV operated.

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

6 **(19)** ~~(20)~~—By December 31 of each year, the department shall
7 submit to the legislature a report that summarizes reports received
8 under subsection ~~(19)~~ **(18)** during the preceding calendar year. In
9 the report, the department may recommend amendments to this part to
10 improve the safety of children less than 16 years of age
11 participating in organized ORV riding or racing events.

12 **(20)** ~~(21)~~—The requirements of this section are in addition to
13 any applicable requirements of section ~~81131(9)~~ **81131(13)**.

14 Sec. 81131. (1) A municipality may pass an ordinance allowing
15 a permanently disabled person to operate an ORV in that
16 municipality.

17 (2) Subject to subsection (4), the county board of
18 commissioners of an eligible county may adopt an ordinance
19 authorizing the operation of ORVs on the maintained portion of 1 or
20 more roads located within the county. Not less than 45 days before
21 a public hearing on the ordinance, the county clerk shall send
22 notice of the public hearing, by certified mail, to the county road
23 commission and, if state forestland is located within the county,
24 to the department.

25 (3) Subject to subsection (4), the township board of a
26 township located in an eligible county may adopt an ordinance
27 authorizing the operation of ORVs on the maintained portion of 1 or

1 more roads located within the township. Not less than 28 days
2 before a public hearing on the ordinance, the township clerk shall
3 send notice of the public hearing, by certified mail, to the county
4 road commission and, if state forestland is located within the
5 township, to the department. This subsection does not apply to a
6 township until 1 year after the effective date of the amendatory
7 act that first defined eligible county so as to include the county
8 in which that township is located.

9 (4) The board of county road commissioners may close a road to
10 the operation of ORVs ~~under OTHERWISE AUTHORIZED PURSUANT TO~~
11 subsection (2) or (3) to protect the environment or if ~~the SUCH~~
12 operation of ORVs ~~under subsection (2) or (3)~~ poses a particular
13 and demonstrable threat to public safety. A county road commission
14 shall not under this subsection close more than 30% of the linear
15 miles of roads located within the county ~~to the operation of ORVs~~
16 ~~under OR A TOWNSHIP TO THE OPERATION OF ORVS OTHERWISE AUTHORIZED~~
17 **PURSUANT TO** subsection (2) or (3), **RESPECTIVELY**. The township board
18 of a township located in an eligible county may adopt an ordinance
19 to close a road to the operation of ORVs ~~under OTHERWISE AUTHORIZED~~
20 **PURSUANT TO** subsection (2).

21 (5) The legislative body of a municipality located in an
22 eligible county may adopt an ordinance authorizing the operation of
23 ORVs on the maintained portion of 1 or more streets within the
24 municipality.

25 (6) **SUBJECT TO SUBSECTION (8), BY MAY 1, 2013, THE STATE**
26 **TRANSPORTATION DEPARTMENT SHALL AUTHORIZE THE OPERATION OF ORVS ON**
27 **THE MAINTAINED PORTION OF THE HIGHWAY ON ALL OR PART OF AT LEAST 10**

1 HIGHWAYS IN THE UPPER PENINSULA AND AT LEAST 5 HIGHWAYS IN ELIGIBLE
2 COUNTIES IN THE LOWER PENINSULA. BEFORE DESIGNATING THE HIGHWAYS IN
3 THE UPPER PENINSULA OR LOWER PENINSULA, THE STATE TRANSPORTATION
4 DEPARTMENT SHALL SOLICIT AND CONSIDER COMMENTS FROM ORV USER GROUPS
5 IN THE UPPER PENINSULA OR LOWER PENINSULA, RESPECTIVELY.

6 (7) SUBJECT TO SUBSECTIONS (8) OR (9), THE COUNTY BOARD OF
7 COMMISSIONERS OF AN ELIGIBLE COUNTY MAY ADOPT AN ORDINANCE
8 AUTHORIZING THE OPERATION OF ORVS ON THE MAINTAINED PORTION OF 1 OR
9 MORE HIGHWAYS LOCATED WITHIN THE COUNTY. NOT LESS THAN 45 DAYS
10 BEFORE THE COUNTY BOARD OF COMMISSIONERS HOLDS A PUBLIC HEARING ON
11 THE ORDINANCE BUT AFTER DECEMBER 31, 2013, THE COUNTY CLERK SHALL
12 SEND NOTICE OF THE PUBLIC HEARING, BY CERTIFIED MAIL, TO THE STATE
13 TRANSPORTATION DEPARTMENT, THE DEPARTMENT OF STATE POLICE, AND, IF
14 STATE FORESTLAND IS LOCATED WITHIN THE COUNTY, TO THE DEPARTMENT.
15 THE NOTICES TO THE STATE TRANSPORTATION DEPARTMENT AND DEPARTMENT
16 OF STATE POLICE SHALL SOLICIT THEIR COMMENTS ON ENVIRONMENTAL AND
17 PUBLIC SAFETY ISSUES RELATED TO THE PROPOSED ORDINANCE AND INDICATE
18 THAT, TO BE ASSURED OF CONSIDERATION, THE COMMENTS MUST BE RECEIVED
19 NOT MORE THAN 30 DAYS AFTER THE NOTICE WAS SENT. THE COUNTY BOARD
20 OF COMMISSIONERS SHALL CONSIDER COMMENTS TIMELY RECEIVED FROM THE
21 STATE TRANSPORTATION DEPARTMENT AND THE DEPARTMENT OF STATE POLICE.
22 THE COUNTY BOARD OF COMMISSIONERS SHALL WORK WITH LOCAL ORV GROUPS
23 TO ADDRESS CONCERNS RAISED IN THOSE COMMENTS.

24 (8) THE STATE TRANSPORTATION DEPARTMENT OR A COUNTY BOARD OF
25 COMMISSIONERS SHALL AUTHORIZE OPERATION OF AN ORV UNDER SUBSECTION
26 (6) OR (7), RESPECTIVELY, ONLY ON A STRETCH OF HIGHWAY THAT MEETS 1
27 OR MORE OF THE FOLLOWING REQUIREMENTS:

1 (A) SERVES AS A CONNECTOR BETWEEN ORV AREAS, ROUTES, OR TRAILS
2 DESIGNATED BY THE DEPARTMENT OR AN ORV USER GROUP.

3 (B) PROVIDES ACCESS TO TOURIST ATTRACTIONS, FOOD SERVICE
4 ESTABLISHMENTS, FUEL, OR OTHER SERVICES.

5 (C) SERVES AS A CONNECTOR BETWEEN 2 SEGMENTS OF THE SAME
6 COUNTY ROAD THAT RUN ALONG DISCONTINUOUS TOWN LINES.

7 (D) INCLUDES A BRIDGE THAT ALLOWS AN ORV TO CROSS A STREAM,
8 WETLAND, OR GULLY THAT IS NOT CROSSED BY A ROAD OR STREET ON WHICH
9 ORVS ARE AUTHORIZED TO OPERATE UNDER SUBSECTION (2) OR (3).

10 (9) THE STATE TRANSPORTATION DEPARTMENT MAY CLOSE A HIGHWAY TO
11 THE OPERATION OF ORVS OTHERWISE AUTHORIZED PURSUANT TO SUBSECTION
12 (7) BY WRITTEN NOTICE TO THE COUNTY CLERK AND THE SENATE COMMITTEES
13 WITH PRIMARY RESPONSIBILITY FOR NATURAL RESOURCES, RECREATION, AND
14 TRANSPORTATION. THE NOTICE SHALL BE IN WRITING AND SENT BY FIRST-
15 CLASS UNITED STATES MAIL OR PERSONALLY DELIVERED NOT MORE THAN 30
16 DAYS AFTER THE ADOPTION OF THE ORDINANCE. THE NOTICE SHALL SET
17 FORTH SPECIFIC REASONS FOR THE CLOSURE.

18 (10) ~~(6)~~—Subject to subsection (4), if a local unit of
19 government adopts an ordinance pursuant to subsection (2), (3), ~~or~~
20 (5), OR (7) OR THE STATE TRANSPORTATION DEPARTMENT DESIGNATES A
21 HIGHWAY UNDER SUBSECTION (6), a person may operate an ORV with the
22 flow of traffic on the far right of the maintained portion of the
23 road, ~~or~~ street, OR HIGHWAY covered by the ordinance. A person
24 shall not operate an ORV AS AUTHORIZED pursuant to subsection (2),
25 (3), ~~or~~ (5), (6), OR (7) at a speed greater than 25 miles per hour
26 or a lower posted ORV speed limit or in a manner that interferes
27 with traffic on the road, ~~or~~ street, OR HIGHWAY.

1 (11) ~~(7)~~—Unless the person possesses a license as defined in
2 section 25 of the Michigan vehicle code, 1949 PA 300, MCL 257.25, a
3 person shall not operate an ORV **AS AUTHORIZED** pursuant to
4 subsection (2), (3), ~~or~~ (5), (6), **OR (7)** if the ORV is registered
5 as a motor vehicle under chapter II of the Michigan vehicle code,
6 1949 PA 300, MCL 257.201 to 257.259, and either is more than ~~60~~—**65**
7 inches wide or has 3 wheels. ORVs operated **AS AUTHORIZED** pursuant
8 to subsection (2), (3), ~~or~~ (5), (6), **OR (7)** shall travel single
9 file, except that an ORV may travel abreast of another ORV when it
10 is overtaking and passing, or being overtaken and passed by,
11 another ORV.

12 (12) ~~(8)~~—A person shall not operate an ORV **AS AUTHORIZED**
13 pursuant to this section without displaying a lighted headlight and
14 lighted taillight.

15 (13) ~~(9)~~—A person under 18 years of age shall not operate an
16 ORV **AS AUTHORIZED** pursuant to this section unless the person is in
17 possession of a valid driver license or under the direct
18 supervision of a parent or guardian and the person has in his or
19 her immediate possession an ORV safety certificate issued pursuant
20 to this part or a comparable ORV safety certificate issued under
21 the authority of another state or a province of Canada. A person
22 under 12 years of age shall not operate an ORV **AS AUTHORIZED**
23 pursuant to this section. The requirements of this subsection are
24 in addition to any applicable requirements of section 81129.

25 (14) ~~(10)~~—A township that has authorized the operation of ORVs
26 on a road under subsection (3) **OR A COUNTY THAT HAS AUTHORIZED THE**
27 **OPERATION OF ORVS ON A HIGHWAY UNDER SUBSECTION (7)** does not have a

1 duty to maintain the road **OR HIGHWAY** in a condition reasonably safe
 2 and convenient for the operation of ORVs. ~~A-THIS STATE, A~~ board of
 3 county road commissioners, a county board of commissioners, or a
 4 municipality does not have a duty to maintain a **HIGHWAY**, road, or
 5 street under its jurisdiction in a condition reasonably safe and
 6 convenient for the operation of ORVs, except the following ORVs:

7 (a) ORVs registered as motor vehicles as provided in the code.

8 (b) ORVs permitted by an ordinance as provided in subsection
 9 (1).

10 (15) ~~(11) Beginning October 19, 1993, THIS STATE,~~ a board of
 11 county road commissioners, a county board of commissioners, ~~and a~~
 12 county, ~~are, and, beginning on April 25, 1995,~~ a municipality ~~is,~~
 13 **ARE** immune from tort liability for injuries or damages sustained by
 14 any person arising in any way out of the operation or use of an ORV
 15 on maintained or unmaintained **HIGHWAYS**, roads, streets, shoulders,
 16 and rights-of-way over which **THIS STATE**, the board of county road
 17 commissioners, the county board of commissioners, or the
 18 municipality has jurisdiction. The immunity provided by this
 19 subsection does not apply to actions that constitute gross
 20 negligence. As used in this subsection, "gross negligence" means
 21 conduct so reckless as to demonstrate a substantial lack of concern
 22 for whether an injury results.

23 (16) ~~(12)~~—In a court action in this state, if competent
 24 evidence demonstrates that a vehicle that is permitted to operate
 25 on a road, ~~or~~ street, **OR HIGHWAY** pursuant to the code was in a
 26 collision with an ORV required to be operated on the far right of
 27 the maintained portion of a road, ~~or~~ street, **OR HIGHWAY** pursuant to

1 ~~an ordinance adopted under subsection (2), (3), or (5),~~ **SUBSECTION**
2 **(10)**, the operator of the ORV shall be considered prima facie
3 negligent.

4 **(17)** ~~(13)~~ A violation of an ordinance described in this
5 section is a municipal civil infraction. The ordinance may provide
6 for a ~~maximum~~ fine of not more than \$500.00 for a violation of the
7 ordinance. In addition, the court shall order the defendant to pay
8 the cost of repairing any damage to the environment, a road, ~~or~~
9 street, **OR HIGHWAY**, or public property ~~damaged~~ as a result of the
10 violation.

11 **(18)** ~~(14)~~ The treasurer of the local unit of government shall
12 deposit fines collected by that local unit of government under
13 section 8379 of the revised judicature act of 1961, 1961 PA 236,
14 MCL 600.8379, and subsection ~~(13)~~ **(17)** and damages collected under
15 subsection ~~(13)~~ **(17)** into a fund to be designated as the "ORV
16 fund". The legislative body of the local unit of government shall
17 appropriate revenue in the ORV fund as follows:

18 (a) Fifty percent to the county sheriff or police department
19 responsible for law enforcement in the local unit of government for
20 ORV enforcement and training.

21 (b) Fifty percent to the board of county road commissioners
22 or, in the case of a city or village, to the department responsible
23 for street maintenance in the city or village. ~~—~~ **HOWEVER, IF A FINE**
24 **WAS COLLECTED FOR A VIOLATION OF AN ORDINANCE ADOPTED UNDER**
25 **SUBSECTION (7), 50% OF THE FINE REVENUE SHALL BE APPROPRIATED TO**
26 **THE STATE TRANSPORTATION DEPARTMENT. REVENUE APPROPRIATED UNDER**
27 **THIS SUBDIVISION SHALL BE USED** for repairing damage to roads, ~~or~~

1 streets, **OR HIGHWAYS** and the environment that may have been caused
 2 by ORVs and for posting signs indicating ORV speed limits or
 3 indicating whether roads, ~~or streets~~, **OR HIGHWAYS** are open or
 4 closed to the operation of ORVs ~~under~~ **AS AUTHORIZED PURSUANT TO**
 5 this section.

6 (19) **A PERSON WHO VIOLATES A RULE PROMULGATED OR ORDER ISSUED**
 7 **UNDER SUBSECTION (6) IS RESPONSIBLE FOR A STATE CIVIL INFRACTION**
 8 **AND MAY BE ORDERED TO PAY A CIVIL FINE OF NOT MORE THAN \$500.00. IN**
 9 **ADDITION, THE COURT SHALL ORDER THE DEFENDANT TO PAY THE COST OF**
 10 **REPAIRING ANY DAMAGE TO THE ENVIRONMENT, A HIGHWAY, OR PUBLIC**
 11 **PROPERTY AS A RESULT OF THE VIOLATION.**

12 (20) ~~(15)~~ As used in this section:

13 ~~— (a) "Eligible county" means any of the following:~~

14 ~~— (i) Oceana, Newaygo, Montcalm, Gratiot, Saginaw, Tuscola, or~~
 15 ~~Sanilac county or a county lying north thereof, including all of~~
 16 ~~the counties of the Upper Peninsula.~~

17 ~~— (ii) St. Clair county.~~

18 ~~— (b) "Local unit of government" means a county, township, or~~
 19 ~~municipality.~~

20 ~~— (c) "Municipality" means a city or village.~~

21 **(A) "HIGHWAY" MEANS A STATE TRUNKLINE HIGHWAY OTHER THAN AN**
 22 **INTERSTATE HIGHWAY.**

23 **(B) ~~(d)~~ "Road" means a county primary road or county local**
 24 **road as described in section 5 of 1951 PA 51, MCL 247.655.**

25 **(C) ~~(e)~~ "Street" means a city or village major street or city**
 26 **or village local street as described in section 9 of 1951 PA 51,**
 27 **MCL 247.659.**

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

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

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

16 (c) During the hours of 1/2 hour after sunset to 1/2 hour
17 before sunrise without displaying a lighted headlight and lighted
18 taillight. The requirements of this subdivision are in addition to
19 any applicable requirements of section ~~81131(8)~~-81131(12).

20 (d) Unless equipped with a braking system that may be operated
21 by hand or foot, capable of producing deceleration at 14 feet per
22 second on level ground at a speed of 20 miles per hour; a brake
23 light, brighter than the taillight, visible **FROM BEHIND THE VEHICLE**
24 when the brake is activated, ~~to the rear of the vehicle when~~ **IF** the
25 vehicle is operated during the hours of 1/2 hour after sunset and
26 1/2 hour before sunrise; and a throttle so designed that when the
27 pressure used to advance the throttle is removed, the engine speed

1 will immediately and automatically return to idle.

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

16 (f) On the frozen surface of public waters within 100 feet of
17 an individual not in or upon a vehicle, or within 100 feet of a
18 fishing shanty or shelter or an area that is cleared of snow for
19 skating purposes, except at the minimum speed required to maintain
20 controlled forward movement of the vehicle, or as may be authorized
21 by permit in special events.

22 (g) Unless the vehicle is equipped with a spark arrester type
23 United States forest service approved muffler, in good working
24 order and in constant operation. Exhaust noise emission shall not
25 exceed 86 Db(A) or 82 Db(A) on a vehicle manufactured after January
26 1, 1986, when the vehicle is under full throttle, traveling in
27 second gear, and measured 50 feet at right angles from the vehicle

1 path with a sound level meter that meets the requirement of ANSI
2 S1.4 1983, using procedure and ancillary equipment therein
3 described; or 99 Db(A) or 94 Db(A) on a vehicle manufactured after
4 January 1, 1986, or that level comparable to the current sound
5 level as provided for by the United States environmental protection
6 agency when tested according to the provisions of the current SAE
7 J1287, June 86 test procedure for exhaust levels of stationary
8 motorcycles, using sound level meters and ancillary equipment
9 therein described. A vehicle subject to this part, manufactured or
10 assembled after December 31, 1972 and used, sold, or offered for
11 sale in this state, shall conform to the noise emission levels
12 established by the United States environmental protection agency
13 under the noise control act of 1972, 42 USC 4901 to 4918.

14 (h) Within 100 feet of a dwelling at a speed greater than the
15 minimum required to maintain controlled forward movement of the
16 vehicle, except on property owned or under the operator's control
17 or on which the operator is an invited guest, or on a roadway,
18 forest road, or forest trail maintained by or under the
19 jurisdiction of the department, or on a road or street on which ORV
20 use is authorized ~~under~~ **PURSUANT TO** section 81131(2), (3), ~~or~~ (5),
21 (6), OR (7).

22 (i) In or upon the lands of another without the written
23 consent of the owner, the owner's agent, or a lessee, when required
24 by part 731. The operator of the vehicle is liable for damage to
25 private property **CAUSED BY OPERATION OF THE VEHICLE**, including, but
26 not limited to, damage to trees, shrubs, or growing crops, injury
27 to other living creatures, or ~~damage caused through vehicle~~

1 ~~operation in a manner so as to create~~ erosive or other ecological
2 damage. The owner of the private property may recover from the
3 individual responsible nominal damages of not less than the amount
4 of damage or injury. Failure to post private property or fence or
5 otherwise enclose in a manner to exclude intruders or of the
6 private property owner or other authorized person to personally
7 communicate against trespass does not imply consent to ORV use.

8 (j) In an area on which public hunting is permitted during the
9 regular November firearm deer season from 7 a.m. to 11 a.m. and
10 from 2 p.m. to 5 p.m., except during an emergency or for law
11 enforcement purposes, to go to and from a permanent residence or a
12 hunting camp otherwise inaccessible by a conventional wheeled
13 vehicle, **OR** to remove from public land a deer, elk, or bear that
14 has been taken under a valid license; except ~~for the~~ **TO** conduct of
15 necessary work functions involving land and timber survey,
16 communication and transmission line patrol, ~~and~~ **OR** timber harvest
17 operations; or except on property owned or under control of the
18 operator or on which the operator is an invited guest. A hunter
19 removing game under this subdivision may leave the designated trail
20 or forest road only to retrieve the game and shall not exceed 5
21 miles per hour. A vehicle registered under the code is exempt from
22 this subdivision while operating on a public highway or public or
23 private road capable of sustaining automobile traffic. A person
24 holding a valid permit to hunt from a standing vehicle issued under
25 part 401, or a person with a disability using an ORV to access
26 public lands for purposes of hunting or fishing through use of a
27 designated trail or forest road, is exempt from this subdivision.

1 An individual holding a valid permit to hunt from a standing
2 vehicle issued under part 401, or a person with a disability using
3 an ORV to access public lands for purposes of hunting or fishing,
4 may display a flag, the color of which the department shall
5 determine, to identify himself or herself as a person with a
6 disability or an individual holding a permit to hunt from a
7 standing vehicle under part 401.

8 (k) Except as otherwise provided in section 40111(3) or (4),
9 while transporting on the vehicle a bow unless unstrung or encased,
10 or a firearm unless unloaded and securely encased, or equipped with
11 and made inoperative by a manufactured keylocked trigger housing
12 mechanism.

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

15 (m) Within 100 feet of a slide, ski, or skating area, unless
16 the vehicle is being used for the purpose of servicing the area or
17 is being operated pursuant to section 81131(2), (3), ~~or~~ (5), (6),
18 OR (7).

19 (n) On an operating or nonabandoned railroad or railroad
20 right-of-way, or public utility right-of-way, other than for the
21 purpose of crossing at a clearly established site intended for
22 vehicular traffic, except railroad, public utility, or law
23 enforcement personnel while in performance of their duties, and
24 except if the right-of-way is designated as provided for in section
25 81127.

26 (o) In or upon the waters of any stream, river, bog, wetland,
27 swamp, marsh, or quagmire except over a bridge, culvert, or similar

1 structure.

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

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

5 (r) ~~In~~ **ON PUBLIC LAND**, a manner contrary to operating
6 regulations. ~~on public lands.~~

7 (s) While transporting or possessing, in or on the vehicle,
8 alcoholic liquor in a container that is open or uncapped or upon
9 which the seal is broken, except under either of the following
10 circumstances:

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

13 (ii) If the vehicle does not have a trunk or compartment
14 separate from the passenger compartment, the container is encased
15 or enclosed.

16 (t) While transporting any passenger in or upon an ORV unless
17 the manufacturing standards for the vehicle make provisions for
18 transporting passengers.

19 (u) On adjacent private land, in an area zoned residential,
20 within 300 feet of a dwelling at a speed greater than the minimum
21 required to maintain controlled forward movement of the vehicle
22 except on a roadway, forest road, or forest trail maintained by or
23 under the jurisdiction of the department, or on a road, ~~or~~ street,
24 **OR HIGHWAY** on which ORV use is authorized under section 81131(2),
25 (3), ~~or~~(5), (6), **OR** (7).

26 (2) **EACH PERSON WHO PARTICIPATES IN THE SPORT OF ORV OPERATION**
27 **ACCEPTS THE RISKS ASSOCIATED WITH THAT SPORT INsofar AS THE DANGERS**

1 ARE OBVIOUS AND INHERENT. THOSE RISKS INCLUDE, BUT ARE NOT LIMITED
2 TO, INJURIES TO PERSONS OR PROPERTY THAT CAN RESULT FROM VARIATIONS
3 IN TERRAIN; SURFACE OR SUBSURFACE SNOW OR ICE CONDITIONS; BARE
4 SPOTS; ROCKS, TREES, AND OTHER FORMS OF NATURAL GROWTH OR DEBRIS;
5 AND COLLISIONS WITH SIGNS, FENCES, TRAIL MAINTENANCE EQUIPMENT, OR
6 OTHER ORVS. THOSE RISKS DO NOT INCLUDE INJURIES TO PERSONS OR
7 PROPERTY THAT RESULT FROM THE USE OF AN ORV BY ANOTHER PERSON IN A
8 CARELESS OR NEGLIGENT MANNER LIKELY TO ENDANGER PERSON OR PROPERTY.
9 WHEN AN ORV IS OPERATED IN THE VICINITY OF A RAILROAD RIGHT-OF-WAY,
10 EACH PERSON WHO PARTICIPATES IN THE SPORT OF ORV OPERATION
11 ADDITIONALLY ASSUMES RISKS INCLUDING, BUT NOT LIMITED TO,
12 ENTANGLEMENT WITH RAILROAD TRACKS, SWITCHES, AND TIES AND
13 COLLISIONS WITH TRAINS AND TRAIN-RELATED EQUIPMENT AND FACILITIES.

14 Enacting section 1. Sections 81102 and 81128 of the natural
15 resources and environmental protection act, 1994 PA 451, MCL
16 324.81102 and 324.81128, are repealed.