

SUBSTITUTE FOR
SENATE BILL NO. 371

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 81131 (MCL 324.81131), as amended by 2009 PA
175.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

4 (2) Subject to ~~subsections (4) and (7)~~, **SUBSECTION (4)**, the
5 county board of commissioners of an eligible county may adopt an
6 ordinance authorizing the operation of ORVs on the maintained
7 portion of 1 or more roads located within the county. Not less than
8 45 days before a public hearing on the ordinance, the county clerk
9 shall send notice of the public hearing, by certified mail, to the
10 county road commission and, if state forestland is located within

1 the county, to the department.

2 (3) Subject to ~~subsections (4) and (7), beginning July 17,~~
3 ~~2009,~~ **SUBSECTION (4)**, the township board of a township located in
4 an eligible county may adopt an ordinance authorizing the operation
5 of ORVs on the maintained portion of 1 or more roads located within
6 the township. Not less than 28 days before a public hearing on the
7 ordinance, the township clerk shall send notice of the public
8 hearing, by certified mail, to the county road commission and, if
9 state forestland is located within the township, to the department.
10 **THIS SUBSECTION DOES NOT APPLY TO A TOWNSHIP UNTIL 1 YEAR AFTER THE**
11 **EFFECTIVE DATE OF THE AMENDATORY ACT THAT FIRST DEFINED ELIGIBLE**
12 **COUNTY SO AS TO INCLUDE THE COUNTY IN WHICH THAT TOWNSHIP IS**
13 **LOCATED.**

14 (4) The board of county road commissioners may close a road to
15 the operation of ORVs under subsection (2) or (3) to protect the
16 environment or if the operation of ORVs under subsection (2) or (3)
17 poses a particular and demonstrable threat to public safety. A
18 county road commission shall not under this subsection close more
19 than 30% of the linear miles of roads located within the county to
20 the operation of ORVs under subsection (2) or (3). The township
21 board of a township located in an eligible county may adopt an
22 ordinance to close a road to the operation of ORVs under subsection
23 (2).

24 (5) ~~Subject to subsection (7), the~~ **THE** legislative body of a
25 municipality located in an eligible county may adopt an ordinance
26 authorizing the operation of ORVs on the maintained portion of 1 or
27 more streets within the municipality.

1 (6) Subject to ~~subsections (4) and (7)~~, **SUBSECTION (4)**, if a
2 local unit of government adopts an ordinance pursuant to subsection
3 (2), (3), or (5), a person may operate an ORV with the flow of
4 traffic on the far right of the maintained portion of the road or
5 street covered by the ordinance. A person shall not operate an ORV
6 pursuant to subsection (2), (3), or (5) at a speed greater than 25
7 miles per hour or a lower posted ORV speed limit or in a manner
8 that interferes with traffic on the road or street.

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

19 ~~—— (7) Subsections (2) to (6) and an ordinance adopted under~~
20 ~~subsection (2), (3), or (5) do not apply after July 16, 2013.~~

21 (8) ~~In addition to any applicable requirement of section~~
22 ~~81133(e), a person shall not operate an ORV pursuant to this~~
23 ~~section when visibility is substantially reduced due to weather~~
24 ~~conditions without displaying a lighted headlight and lighted~~
25 ~~taillight. Beginning January 1, 2010, a~~ **A** person shall not operate
26 an ORV pursuant to this section without displaying a lighted
27 headlight and lighted taillight.

1 (9) A person under 18 years of age shall not operate an ORV
2 pursuant to this section unless the person is in possession of a
3 valid driver license or under the direct supervision of a parent or
4 guardian and the person has in his or her immediate possession an
5 ORV safety certificate issued pursuant to this part or a comparable
6 ORV safety certificate issued under the authority of another state
7 or a province of Canada. A person under 12 years of age shall not
8 operate an ORV pursuant to this section. The requirements of this
9 subsection are in addition to any applicable requirements of
10 section 81129.

11 (10) A township that has authorized the operation of ORVs on a
12 road under subsection (3) does not have a duty to maintain the road
13 in a condition reasonably safe and convenient for the operation of
14 ORVs. A board of county road commissioners, a county board of
15 commissioners, or a municipality does not have a duty to maintain a
16 road or street under its jurisdiction in a condition reasonably
17 safe and convenient for the operation of ORVs, except the following
18 ORVs:

- 19 (a) ORVs registered as motor vehicles as provided in the code.
20 (b) ORVs permitted by an ordinance as provided in subsection
21 (1).

22 (11) Beginning October 19, 1993, a board of county road
23 commissioners, a county board of commissioners, and a county are,
24 and, beginning on April 25, 1995, a municipality is, immune from
25 tort liability for injuries or damages sustained by any person
26 arising in any way out of the operation or use of an ORV on
27 maintained or unmaintained roads, streets, shoulders, and rights-

1 of-way over which the board of county road commissioners, the
2 county board of commissioners, or the municipality has
3 jurisdiction. The immunity provided by this subsection does not
4 apply to actions that constitute gross negligence. As used in this
5 subsection, "gross negligence" means conduct so reckless as to
6 demonstrate a substantial lack of concern for whether an injury
7 results.

8 (12) In a court action in this state, if competent evidence
9 demonstrates that a vehicle that is permitted to operate on a road
10 or street pursuant to the code was in a collision with an ORV
11 required to be operated on the far right of the maintained portion
12 of a road or street pursuant to an ordinance adopted under
13 subsection (2), (3), or (5), the operator of the ORV shall be
14 considered prima facie negligent.

15 (13) A violation of an ordinance described in this section is
16 a municipal civil infraction. The ordinance may provide for a
17 maximum fine of not more than \$500.00 for a violation of the
18 ordinance. In addition, the court shall order the defendant to pay
19 the cost of repairing any damage to the environment, a road or
20 street, or public property damaged as a result of the violation.

21 (14) The treasurer of the local unit of government shall
22 deposit fines collected by that local unit of government under
23 section 8379 of the revised judicature act of 1961, 1961 PA 236,
24 MCL 600.8379, and subsection (13) and damages collected under
25 subsection (13) into a fund to be designated as the "ORV fund". The
26 legislative body of the local unit of government shall appropriate
27 revenue in the ORV fund as follows:

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

4 (b) Fifty percent to the board of county road commissioners
5 or, in the case of a city or village, to the department responsible
6 for street maintenance in the city or village, for repairing damage
7 to roads or streets and the environment that may have been caused
8 by ORVs and for posting signs indicating ORV speed limits or
9 indicating whether roads or streets are open or closed to the
10 operation of ORVs under this section.

11 (15) As used in this section:

12 (a) "Eligible county" means any of the following:

13 (i) ~~Mason, Lake, Osceola, Clare, Gladwin, Arenac, or Bay~~
14 **OCEANA, NEWAYGO, MONTCALM, GRATIOT, SAGINAW, TUSCOLA, OR SANILAC**
15 county or a county lying north thereof, including all of the
16 counties of the Upper Peninsula.

17 (ii) ~~Huron, Tuscola, Sanilac, Saginaw, Gratiot, Montcalm, or~~
18 St. Clair county.

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

21 (c) "Municipality" means a city or village.

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

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