

# SENATE BILL No. 337

April 26, 2011, Introduced by Senator HANSEN and referred to the Committee on Outdoor Recreation and Tourism.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 81133 (MCL 324.81133), as amended by 2008 PA 365.

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

1       Sec. 81133. A person 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 person and any passenger in or on the vehicle  
6 is wearing on his or her head a crash helmet and protective eyewear  
7 approved by the United States department of transportation. This  
8 subdivision does not apply if the vehicle is equipped with a roof  
9 that meets or exceeds standards for a crash helmet and the operator  
10 and each passenger is wearing a properly adjusted and fastened

1 safety belt.

2 (c) During the hours of 1/2 hour after sunset to 1/2 hour  
3 before sunrise without displaying a lighted headlight and lighted  
4 taillight. The requirements of this subdivision are in addition to  
5 any applicable requirements of section 81131(8).

6 (d) Unless equipped with a braking system that may be operated  
7 by hand or foot, capable of producing deceleration at 14 feet per  
8 second on level ground at a speed of 20 miles per hour; a brake  
9 light, brighter than the taillight, visible when the brake is  
10 activated to the rear of the vehicle when the vehicle is operated  
11 during the hours of 1/2 hour after sunset and 1/2 hour before  
12 sunrise; and a throttle so designed that when the pressure used to  
13 advance the throttle is removed, the engine speed will immediately  
14 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 operation  
19 would be in violation of rules promulgated by the department; in a  
20 forest nursery or planting area; on public lands posted or  
21 reasonably identifiable as an area of forest reproduction, and when  
22 growing stock may be damaged; in a dedicated natural area of the  
23 department; or in any area in such a manner as to create an erosive  
24 condition, or to injure, damage, or destroy trees or growing crops.  
25 However, the department may permit an owner and guests of the owner  
26 to use an ORV within the boundaries of a state forest in order to  
27 access the owner's property.

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

7 (g) Unless the vehicle is equipped with a spark arrester type  
8 United States forest service approved muffler, in good working  
9 order and in constant operation. Exhaust noise emission shall not  
10 exceed 86 Db(A) or 82 Db(A) on a vehicle manufactured after January  
11 1, 1986, when the vehicle is under full throttle, traveling in  
12 second gear, and measured 50 feet at right angles from the vehicle  
13 path with a sound level meter that meets the requirement of ANSI  
14 S1.4 1983, using procedure and ancillary equipment therein  
15 described; or 99 Db(A) or 94 Db(A) on a vehicle manufactured after  
16 January 1, 1986, or that level comparable to the current sound  
17 level as provided for by the United States environmental protection  
18 agency when tested according to the provisions of the current SAE  
19 J1287, June 86 test procedure for exhaust levels of stationary  
20 motorcycles, using sound level meters and ancillary equipment  
21 therein described. A vehicle subject to this part, manufactured or  
22 assembled after December 31, 1972 and used, sold, or offered for  
23 sale in this state, shall conform to the noise emission levels  
24 established by the United States environmental protection agency  
25 under the noise control act of 1972, 42 USC 4901 to 4918.

26 (h) Within 100 feet of a dwelling at a speed greater than the  
27 minimum required to maintain controlled forward movement of the

1 vehicle, except on property owned or under the operator's control  
2 or on which the operator is an invited guest, or on a roadway,  
3 forest road, or forest trail maintained by or under the  
4 jurisdiction of the department, or on a road or street on which ORV  
5 use is authorized pursuant to section 81131(2), (3), or (5).

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

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

1 operations; or except on property owned or under control of the  
2 operator or on which the operator is an invited guest. A hunter  
3 removing game under this subdivision may leave the designated trail  
4 or forest road only to retrieve the game and shall not exceed 5  
5 miles per hour. A vehicle registered under the code is exempt from  
6 this subdivision while operating on a public highway or public or  
7 private road capable of sustaining automobile traffic. A person  
8 holding a valid permit to hunt from a standing vehicle issued under  
9 part 401, or a person with disabilities using an ORV to access  
10 public lands for purposes of hunting or fishing through use of a  
11 designated trail or forest road, is exempt from this subdivision. A  
12 person holding a valid permit to hunt from a standing vehicle  
13 issued under part 401, or a person with disabilities using an ORV  
14 to access public lands for purposes of hunting or fishing, may  
15 display a flag, the color of which the department shall determine,  
16 to identify himself or herself as a person with disabilities or a  
17 person holding a permit to hunt from a standing vehicle under part  
18 401.

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

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

25 (m) Within 100 feet of a slide, ski, or skating area, unless  
26 the vehicle is being used for the purpose of servicing the area or  
27 is being operated pursuant to section 81131(2), (3), or (5).

1           (n) On an operating or nonabandoned railroad or railroad  
2 right-of-way, or public utility right-of-way, other than for the  
3 purpose of crossing at a clearly established site intended for  
4 vehicular traffic, except railroad, public utility, or law  
5 enforcement personnel while in performance of their duties, and  
6 except if the right-of-way is designated as provided for in section  
7 81127.

8           (o) In or upon the waters of any stream, river, bog, wetland,  
9 swamp, marsh, or quagmire except over a bridge, culvert, or similar  
10 structure.

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

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

14           (r) In a manner contrary to operating regulations on public  
15 lands.

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

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

22           (ii) If the vehicle does not have a trunk or compartment  
23 separate from the passenger compartment, the container is encased  
24 or enclosed.

25           (t) While transporting any passenger in or upon an ORV unless  
26 the manufacturing standards for the vehicle make provisions for  
27 transporting passengers.

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

8           (V) OCCUPIED BY MORE THAN 2 INDIVIDUALS WHILE TRANSPORTING THE  
9 INDIVIDUALS UPON THE FROZEN SURFACE OF PUBLIC WATERS BETWEEN THE  
10 SHORE AND A FISHING SHANTY OR SHELTER.