

SUBSTITUTE FOR
SENATE BILL NO. 50

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 81101, 81115, 81122, 81129, and 81133 (MCL 324.81101, 324.81115, 324.81122, 324.81129, 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, 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
5 powered by a 50cc to 1,000cc gasoline engine or an engine of

1 comparable size using other fuels.

2 (b) "Code" means the Michigan vehicle code, 1949 PA 300, MCL
3 257.1 to 257.923.

4 (c) "Dealer" means a person engaged in the sale, lease, or
5 rental of an ORV as a regular business or, for purposes of selling
6 licenses under section 81116, any other person authorized by the
7 department to sell licenses or permits, or both, under this act.

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

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

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

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

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

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

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

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

26 (H) ~~(g)~~ "Forest trail" means a designated path or way capable
27 of travel only by a vehicle less than 50 inches in width.

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

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

7 (K) ~~(j)~~—"Late model ORV" means an ORV manufactured in the
8 current model year or the 5 model years immediately preceding the
9 current model year.

10 (L) **"LOCAL UNIT OF GOVERNMENT" MEANS A COUNTY, TOWNSHIP, OR**
11 **MUNICIPALITY.**

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

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

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

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

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

23 (R) ~~(o)~~—"ORV" or, **UNLESS THE CONTEXT IMPLIES A DIFFERENT**
24 **MEANING,** "vehicle" means a motor-driven off-road recreation vehicle
25 capable of cross-country travel without benefit of a road or trail,
26 on or immediately over land, snow, ice, marsh, swampland, or other
27 natural terrain. ~~ORV or vehicle includes, but is not limited to, a~~

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

14 (S) ~~(p)~~ "Owner" means any of the following:

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

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

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

23 (T) ~~(q)~~ "Person with a disability" means ~~a person~~ **AN**
 24 **INDIVIDUAL** who has 1 or more of the following physical
 25 characteristics:

26 (i) Blindness.

27 (ii) Inability, **DURING SOME TIME OF THE YEAR**, to ambulate more

1 than 200 feet without having to stop and rest. ~~during any time of~~
2 ~~the year.~~

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

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

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

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

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

19 (U) ~~(r)~~ "Personal information" means information that
20 identifies an individual, including an individual's driver
21 identification number, name, address not including zip code, and
22 telephone number, but does not include information on ORV operation
23 or equipment-related violations or civil infractions, operator or
24 vehicle registration status, accidents, or other behaviorally-
25 related information.

26 (V) ~~(s)~~ "Public agency" means the department or a local or
27 federal unit of government.

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

5 (W) "ROAD" MEANS A COUNTY PRIMARY ROAD OR COUNTY LOCAL ROAD AS
 6 DESCRIBED IN SECTION 5 OF 1951 PA 51, MCL 247.655.

7 (X) ~~(u)~~"Route" means a forest road or other road that is
 8 designated for purposes of this part by the department.

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

13 (Z) "STREET" MEANS A CITY OR VILLAGE MAJOR STREET OR CITY OR
 14 VILLAGE LOCAL STREET AS DESCRIBED IN SECTION 9 OF 1951 PA 51, MCL
 15 247.659.

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

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

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

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

27 (c) ~~Except as otherwise provided in section 81102, on~~**ON** the

1 maintained portion of a ~~road or street~~. HIGHWAY, EXCEPT AS
2 AUTHORIZED UNDER SECTION 81122 OR 81131 OR IF THE VEHICLE IS
3 REGISTERED UNDER PART 801 OR THE CODE.

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

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

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

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

20 (D) IF AND TO THE EXTENT THE DEPARTMENT WAIVES THE REQUIREMENT
21 PURSUANT TO A RECIPROCAL AGREEMENT WITH ANOTHER STATE.

22 (3) THE DEPARTMENT IS AUTHORIZED TO ENTER A RECIPROCAL
23 AGREEMENT DESCRIBED IN SUBSECTION (2) (D).

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 **OTHER** highway for
8 a 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) A farmer, employee of a farmer, or family member of a
14 farmer who is at least 16 years of age may operate an ORV on the
15 ~~extreme FAR right side of a roadway or highway right of way~~ **THE**
16 **SHOULDER OF A HIGHWAY** when it is not practicable to operate off
17 ~~that roadway or highway right of way.~~ **THE SHOULDER.** Such operation
18 shall be limited to traveling to or from the farmer's residence or
19 work location or field during the course of farming operations. An
20 ORV shall not be operated pursuant to this subdivision during the
21 period of 30 minutes before sunset to 30 minutes after sunrise,
22 when visibility is substantially reduced due to weather conditions,
23 or in a manner so as to interfere with traffic. The state
24 transportation department and all of its employees are immune from
25 tort liability for injury or damages sustained by any person
26 arising in any way by reason of the operation or use of an ORV for
27 the limited purposes allowed under this subdivision. An operator of

1 an ORV under this subdivision shall have attached to the ORV a flag
2 made of reflective material. The flag shall extend not less than 8
3 feet from the surface of the ~~roadway~~**HIGHWAY** and not less than 4
4 feet above the top of the ORV. The flag shall be not less than 12
5 inches high by 18 inches long and not measure less than 100 square
6 inches.

7 (2) **THE DEPARTMENT SHALL NOT REQUIRE A PERMIT UNDER THIS PART**
8 **MERELY FOR ORGANIZED GROUP RECREATIONAL ORV RIDING ON DEPARTMENT**
9 **LANDS, OR FOR AN ORV EVENT ON THE FROZEN SURFACE OF PUBLIC WATERS,**
10 **IF CONDUCTED IN COMPLIANCE WITH APPLICABLE STATUTES, RULES, AND**
11 **ORDERS. WITHIN 90 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY**
12 **ACT FROM THE 2013-2014 LEGISLATIVE SESSION THAT ADDED THIS**
13 **SUBSECTION, THE DEPARTMENT SHALL DEVELOP AND ESTABLISH, IN**
14 **CONSULTATION WITH REPRESENTATIVES OF THE MICHIGAN SNOWMOBILE AND**
15 **TRAILS ADVISORY COMMITTEE AND OTHER INTERESTED PARTIES, POLICY**
16 **CRITERIA FOR DETERMINING CIRCUMSTANCES UNDER WHICH NOTICE TO THE**
17 **DEPARTMENT OR A PERMIT IS REQUIRED FOR ORV EVENTS ON DEPARTMENT**
18 **LANDS.**

19 (3) ~~(2)~~—In a court action in this state where competent
20 evidence demonstrates that a vehicle that is permitted to operate
21 on a highway pursuant to the code is in a collision with an ORV on
22 ~~a roadway,~~**THE SHOULDER OF A HIGHWAY,** the operator of the ORV
23 involved in the collision shall be considered prima facie
24 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
22 highway. ~~or street.~~ An operator who is not less than 12 years of
23 age but less than 16 years of age may cross a highway ~~or street~~ or
24 operate on the right-of-way or shoulder of ~~roads and streets~~
25 **HIGHWAYS** on which ORV use is authorized pursuant to section
26 81131(2), (3), ~~or~~ (5), **OR** (6) if the operator has a valid ORV
27 safety certificate in his or her immediate possession and meets any

1 other 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(12)**.

14 Sec. 81133. **(1)** An individual shall not operate an ORV:

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

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

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

26 (ii) The operator of or a passenger in an ORV that is operated
27 on a state licensed game bird hunting preserve at a speed of not

1 greater than 10 miles per hour.

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)~~. **81131(11)**.

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 **FROM BEHIND THE VEHICLE**
10 when the brake is activated, ~~to the rear of the vehicle when~~ **IF** the
11 vehicle is operated during the hours of 1/2 hour after sunset and
12 1/2 hour before sunrise; and a throttle so designed that when the
13 pressure used to advance the throttle is removed, the engine speed
14 will 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~~ **OTHER STATE-OWNED** lands under the control of the
18 department ~~other than game areas, state parks, or recreational~~
19 ~~areas~~ where the operation would be in violation of rules
20 promulgated by the department; in a forest nursery or planting
21 area; on public lands posted or reasonably identifiable as an area
22 of forest reproduction, and when growing stock may be damaged; in a
23 dedicated natural area of the department; or in any area in such a
24 manner as to create an erosive condition, or to injure, damage, or
25 destroy trees or growing crops. However, the department may permit
26 an owner and guests of the owner to use an ORV within the
27 boundaries of a state forest in order to access the owner's

1 property.

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

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

27 (h) Within 100 feet of a dwelling at a speed greater than the

1 minimum required to maintain controlled forward movement of the
 2 vehicle, except ~~on~~ **UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:**

3 (i) **ON** property owned **BY** or under the operator's control or on
 4 which the operator is an invited guest. ~~, or on a roadway,~~

5 (ii) **ON A** forest road ~~, or forest trail~~ **IF THE FOREST ROAD OR**
 6 **FOREST TRAIL IS** maintained by or under the jurisdiction of the
 7 department. ~~, or on a road or street~~

8 (iii) **ON A ROAD, STREET, OR STATE TRUNK LINE HIGHWAY** on which
 9 ORV use is authorized ~~under~~ **PURSUANT TO** section 81131(2), (3), ~~or~~
 10 (5), **OR (6)**.

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

24 (j) In an area on which public hunting is permitted during the
 25 regular November firearm deer season from 7 a.m. to 11 a.m. and
 26 from 2 p.m. to 5 p.m., except during an emergency or for law
 27 enforcement purposes, to go to and from a permanent residence or a

1 hunting camp otherwise inaccessible by a conventional wheeled
2 vehicle, **OR** to remove from public land a deer, elk, or bear that
3 has been taken under a valid license; except ~~for the~~ **TO** conduct of
4 necessary work functions involving land and timber survey,
5 communication and transmission line patrol, ~~and~~ **OR** timber harvest
6 operations; or except on property owned or under control of the
7 operator or on which the operator is an invited guest. A hunter
8 removing game under this subdivision may leave the designated trail
9 or forest road only to retrieve the game and shall not exceed 5
10 miles per hour. A vehicle registered under the code is exempt from
11 this subdivision while operating on a public highway or public or
12 private road capable of sustaining automobile traffic. A person
13 holding a valid permit to hunt from a standing vehicle issued under
14 part 401, or a person with a disability using an ORV to access
15 public lands for purposes of hunting or fishing through use of a
16 designated trail or forest road, is exempt from this subdivision.
17 An individual holding a valid permit to hunt from a standing
18 vehicle issued under part 401, or a person with a disability using
19 an ORV to access public lands for purposes of hunting or fishing,
20 may display a flag, the color of which the department shall
21 determine, to identify himself or herself as a person with a
22 disability or an individual holding a permit to hunt from a
23 standing vehicle under part 401.

24 (k) Except as otherwise provided in section 40111(3) or (4),
25 while transporting on the vehicle a bow unless unstrung or encased,
26 or a firearm unless unloaded and securely encased, or equipped with
27 and made inoperative by a manufactured keylocked trigger housing

1 mechanism.

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

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

8 (n) On an operating or nonabandoned railroad or railroad
9 right-of-way, or public utility right-of-way, other than for the
10 purpose of crossing at a clearly established site intended for
11 vehicular traffic, except railroad, public utility, or law
12 enforcement personnel while in performance of their duties, and
13 except if the right-of-way is designated as provided for in section
14 81127.

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

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

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

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

23 (s) While transporting or possessing, in or on the vehicle,
24 alcoholic liquor in a container that is open or uncapped or upon
25 which the seal is broken, except under either of the following
26 circumstances:

27 (i) The container is in a trunk or compartment separate from

1 the passenger compartment of the vehicle.

2 (ii) If the vehicle does not have a trunk or compartment
3 separate from the passenger compartment, the container is encased
4 or enclosed.

5 (t) While transporting any passenger in or upon an ORV unless
6 the manufacturing standards for the vehicle make provisions for
7 transporting passengers.

8 (u) On adjacent private land, in an area zoned residential,
9 within 300 feet of a dwelling at a speed greater than the minimum
10 required to maintain controlled forward movement of the vehicle
11 except ~~on a roadway,~~ **UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:**

12 (i) **ON A HIGHWAY,** forest road, or forest trail **IF THE HIGHWAY,**
13 **FOREST ROAD, OR FOREST TRAIL IS** maintained by or under the
14 jurisdiction of the department. ~~, or on a road or street~~

15 (ii) **ON A HIGHWAY** on which ORV use is authorized under section
16 81131(2), (3), ~~or~~ (5), OR (6).

17 (2) **EACH PERSON WHO PARTICIPATES IN THE SPORT OF ORV RIDING**
18 **ACCEPTS THE RISKS ASSOCIATED WITH THAT SPORT INsofar AS THE DANGERS**
19 **ARE OBVIOUS AND INHERENT. THOSE RISKS INCLUDE, BUT ARE NOT LIMITED**
20 **TO, INJURIES TO PERSONS OR PROPERTY THAT CAN RESULT FROM VARIATIONS**
21 **IN TERRAIN; DEFECTS IN HIGHWAYS; SURFACE OR SUBSURFACE SNOW OR ICE**
22 **CONDITIONS; BARE SPOTS; ROCKS, TREES, AND OTHER FORMS OF NATURAL**
23 **GROWTH OR DEBRIS; AND COLLISIONS WITH FILL MATERIAL, DECKS,**
24 **BRIDGES, SIGNS, FENCES, TRAIL MAINTENANCE EQUIPMENT, OR OTHER ORVS.**
25 **THOSE RISKS DO NOT INCLUDE INJURIES TO PERSONS OR PROPERTY THAT**
26 **RESULT FROM THE USE OF AN ORV BY ANOTHER PERSON IN A CARELESS OR**
27 **NEGLIGENT MANNER LIKELY TO ENDANGER PERSON OR PROPERTY. WHEN AN ORV**

1 IS OPERATED IN THE VICINITY OF A RAILROAD RIGHT-OF-WAY, EACH PERSON
2 WHO PARTICIPATES IN THE SPORT OF ORV RIDING ADDITIONALLY ASSUMES
3 RISKS INCLUDING, BUT NOT LIMITED TO, ENTANGLEMENT WITH RAILROAD
4 TRACKS, SWITCHES, AND TIES AND COLLISIONS WITH TRAINS AND TRAIN-
5 RELATED EQUIPMENT AND FACILITIES.

6 Enacting section 1. Sections 81102 and 81128 of the natural
7 resources and environmental protection act, 1994 PA 451, MCL
8 324.81102 and 324.81128, are repealed.