

**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2013**

Introduced by Senator Casperson

ENROLLED SENATE BILL No. 50

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to protect the people’s right to hunt and fish; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts,” by amending sections 81101, 81115, 81122, 81129, 81133, and 81147 (MCL 324.81101, 324.81115, 324.81122, 324.81129, 324.81133, and 324.81147), section 81101 as amended by 2012 PA 246, sections 81115, 81129, and 81147 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:

Sec. 81101. As used in this part:

(a) “ATV” means a vehicle with 3 or more wheels that is designed for off-road use, has low-pressure tires, has a seat designed to be straddled by the rider, and is powered by a 50cc to 1,000cc gasoline engine or an engine of comparable size using other fuels.

(b) “Code” means the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(c) “County road” means a county primary road or county local road as described in section 5 of 1951 PA 51, MCL 247.655, or a segment thereof.

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

(e) “Designated”, unless the context implies otherwise, means posted by the department, with appropriate signs, as open for ORV use.

(f) “Farm vehicle” means either of the following:

(i) An implement of husbandry as defined in section 21 of the Michigan vehicle code, 1949 PA 300, MCL 257.21.

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

- (g) “Forest road” means a hard surfaced road, gravel or dirt road, or other route capable of travel by a 2-wheel drive, 4-wheel conventional vehicle designed for road use. Forest road does not include a street, county road, or highway.
- (h) “Forest trail” means a designated path or way capable of travel only by a vehicle less than 50 inches in width.
- (i) “Highway” means a state trunk line highway or a segment of a state trunk line highway.
- (j) “Highly restricted personal information” means an individual’s photograph or image, social security number, digitized signature, and medical and disability information.
- (k) “Late model ORV” means an ORV manufactured in the current model year or the 5 model years immediately preceding the current model year.
- (l) “Local unit of government” means a county, township, or municipality.
- (m) “Maintained portion” means the roadway and any shoulder of a street, county road, or highway.
- (n) “Manufacturer” means a person, partnership, corporation, or association engaged in the production and manufacture of ORVs as a regular business.
- (o) “Municipality” means a city or village.
- (p) “Off-road vehicle account” means the off-road vehicle account of the Michigan conservation and recreation legacy fund established in section 2015.
- (q) “Operate” means to ride in or on, and be in actual physical control of, the operation of an ORV.
- (r) “Operator” means an individual who operates or is in actual physical control of the operation of an ORV.
- (s) “ORV” or, unless the context implies a different meaning, “vehicle” means a motor-driven off-road recreation vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. A multitrack or multiwheel drive vehicle, a motorcycle or related 2-wheel vehicle, a vehicle with 3 or more wheels, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation may be an ORV. An ATV is an ORV. ORV or vehicle does not include a registered snowmobile, a farm vehicle being used for farming, a vehicle used for military, fire, emergency, or law enforcement purposes, a vehicle owned and operated by a utility company or an oil or gas company when performing maintenance on its facilities or on property over which it has an easement, a construction or logging vehicle used in performance of its common function, or a registered aircraft.
- (t) “Owner” means any of the following:
- (i) A vendee or lessee of an ORV that is the subject of an agreement for the conditional sale or lease of the ORV, with the right of purchase upon performance of the conditions stated in the agreement, and with an immediate right of possession vested in the conditional vendee or lessee.
- (ii) A person renting an ORV, or having the exclusive use of an ORV, for more than 30 days.
- (iii) A person who holds legal ownership of an ORV.
- (u) “Person with a disability” means an individual who has 1 or more of the following physical characteristics:
- (i) Blindness.
- (ii) Inability, during some time of the year, to ambulate more than 200 feet without having to stop and rest.
- (iii) Loss of use of 1 or both legs or feet.
- (iv) Inability to ambulate without the prolonged use of a wheelchair, walker, crutches, braces, or other device required to aid mobility.
- (v) A lung disease from which the individual’s expiratory volume for 1 second, when measured by spirometry, is less than 1 liter, or from which the individual’s arterial oxygen tension is less than 60 mm/hg of room air at rest.
- (vi) A cardiovascular disease that causes the individual to measure between 3 and 4 on the New York heart classification scale, or that results in a marked limitation of physical activity by causing fatigue, palpitation, dyspnea, or anginal pain.
- (vii) Other diagnosed disease or disorder including, but not limited to, severe arthritis or a neurological or orthopedic impairment that creates a severe mobility limitation.
- (v) “Personal information” means information that identifies an individual, including an individual’s driver identification number, name, address not including zip code, and telephone number, but does not include information on ORV operation or equipment-related violations or civil infractions, operator or vehicle registration status, accidents, or other behaviorally-related information.
- (w) “Public agency” means the department or a local or federal unit of government.
- (x) “Roadway” means the portion of a street, county road, or highway improved, designed, or ordinarily used for travel by vehicles registered under the code. Roadway does not include the shoulder.
- (y) “Route” means a forest road or other road that is designated for purposes of this part by the department.

(z) "Safety chief instructor" means an individual who has been certified by a nationally recognized ORV organization to certify instructors and to do on-sight evaluations of instructors.

(aa) "Shoulder" means that portion of a street, county road, or highway contiguous to the roadway and generally extending the contour of the roadway, not designed for vehicular travel but maintained for the temporary accommodation of disabled or stopped motor vehicles otherwise permitted on the roadway.

(bb) "Southern county" means Muskegon, Kent, Ionia, Clinton, Shiawassee, Genesee, Lapeer, or Macomb county, or a county lying south of the territory constituted by these counties.

(cc) "Street" means a city or village major street or city or village local street as described in section 9 of 1951 PA 51, MCL 247.659, or a segment thereof.

(dd) "Traffic lane" means a clearly marked lane on a roadway.

(ee) "Unmaintained portion" means the portion of a street, county road, or highway that is not the maintained portion.

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

Sec. 81115. (1) Subject to subsection (2), a person shall not operate an ORV under any of the following conditions unless the ORV is licensed with the department or a dealer as provided under this part:

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

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

(c) On a street, county road, or highway, except if the vehicle is registered under the code.

(2) An ORV is not required to be licensed under this part under any of the following circumstances:

(a) The ORV is used exclusively in a comprehensive program for training as required in section 81129.

(b) The ORV is operated solely on private property by the owner of the property, a family member of the owner, or an invited guest of the owner.

(c) The ORV is being operated on a free ORV-riding day. The department shall designate as free ORV-riding days each year a Saturday and the following Sunday that are also designated as free fishing days under section 43534. In addition, the department may designate 1 other day or 2 other consecutive days each year as free ORV-riding days. A person operating an unlicensed ORV during a free ORV-riding day has the same privileges and is subject to the same rules and regulations as a person operating an ORV licensed as required under subsection (1).

(d) If and to the extent the department waives the requirement pursuant to a reciprocal agreement with another state.

(3) The department is authorized to enter a reciprocal agreement described in subsection (2)(d).

Sec. 81122. (1) A person shall not operate an ORV that is not registered under the code upon a street, county road, or highway, except as provided in section 81131 or under the following conditions and circumstances:

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

(b) A vehicle may be operated on a street, county road, or highway for a special event of limited duration and conducted according to a prearranged schedule only under permit from the governmental unit having jurisdiction. Subject to subsection (2), a special event involving ORVs may be conducted on the frozen surface of public waters only under permit from the department.

(c) A farmer, employee of a farmer, or family member of a farmer who is at least 16 years of age may operate an ORV on a street, county road, or highway while traveling to or from the farmer's residence or work location or field during the course of farming operations. An ORV shall not be operated pursuant to this subdivision during the period of 30 minutes before sunset to 30 minutes after sunrise or when visibility is substantially reduced due to weather conditions. The individual shall operate the ORV in the same manner and on the same portion of the street, county road, or highway as required under section 81131(9). The state transportation department and all of its employees are immune from tort liability for injury or damages sustained by any person arising in any way by reason of the operation or use of an ORV for the limited purposes allowed under this subdivision. An operator of an ORV under this subdivision shall have attached to the ORV a flag made of reflective material. The flag shall extend not less than 8 feet from the surface of the street, county road, or highway and not less than 4 feet above the top of the ORV. The flag shall be not less than 12 inches high by 18 inches long and not measure less than 100 square inches.

(2) The department shall not require a permit under this part merely for organized group recreational ORV riding on department lands, or for an ORV event on the frozen surface of public waters, if conducted in compliance with applicable statutes, rules, and orders. Within 90 days after the effective date of the amendatory act from the 2013-2014 legislative session that added this subsection, the department shall develop and establish, in consultation with representatives of the Michigan snowmobile and trails advisory committee and other interested parties, policy criteria for determining circumstances under which notice to the department or a permit is required for ORV events on department lands.

(3) In a court action in this state if competent evidence demonstrates that a vehicle that is permitted to operate on a highway pursuant to the code is in a collision on a roadway with an ORV that is not registered under the code, the operator of the ORV involved in the collision shall be considered prima facie negligent.

Sec. 81129. (1) Subject to subsections (2), (3), and (17), a parent or legal guardian of a child less than 16 years of age shall not permit the child to operate an ORV unless the child is under the direct visual supervision of an adult and the child has in his or her immediate possession an ORV safety certificate issued pursuant to this part or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

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

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

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

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

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

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

(8) The department shall implement a comprehensive program for the training of ORV operators and the preparation and dissemination of ORV information and safety advice to the public. The program shall provide for the training of youthful operators and for the issuance of ORV safety certificates to those who successfully complete the training and may include separate instruction for each type of ORV.

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

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

(11) The department may promulgate rules to implement subsections (8) to (10) and (17).

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

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

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

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

(16) Notwithstanding any other provision of this section, an operator who is less than 12 years of age shall not cross a street, county road, or highway. An operator who is not less than 12 years of age but less than 16 years of age may cross a street, county road, or highway or operate an ORV pursuant to section 81131(9) if the operator has a valid ORV safety certificate in his or her immediate possession and meets any other requirements under this section for operation of the vehicle.

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

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

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

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

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

(e) The event is at all times under the direct visual supervision of adult staff of the event organizer and a staff member serves as a flagger to warn ORV riders if another ORV rider is injured or an ORV is inoperable in the ORV operating area.

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

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

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

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

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

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

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

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

(b) The age of the child.

(c) Whether the child had been issued an ORV safety certificate under this part or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

(d) The type of ORV operated.

(e) A description of the accident and injury.

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

(20) The requirements of this section are in addition to any applicable requirements of section 81131(13).

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

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

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

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

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

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

(d) Unless equipped with a braking system that may be operated by hand or foot, capable of producing deceleration at 14 feet per second on level ground at a speed of 20 miles per hour; a brake light, brighter than the taillight, visible

from behind the vehicle when the brake is activated, if the vehicle is operated during the hours of 1/2 hour after sunset and 1/2 hour before sunrise; and a throttle so designed that when the pressure used to advance the throttle is removed, the engine speed will immediately and automatically return to idle.

(e) In a state game area or state park or recreation area, except on roads, trails, or areas designated for this purpose; on other state-owned lands under the control of the department where the operation would be in violation of rules promulgated by the department; in a forest nursery or planting area; on public lands posted or reasonably identifiable as an area of forest reproduction, and when growing stock may be damaged; in a dedicated natural area of the department; or in any area in such a manner as to create an erosive condition, or to injure, damage, or destroy trees or growing crops. However, the department may permit an owner and guests of the owner to use an ORV within the boundaries of a state forest in order to access the owner's property.

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

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

(h) Within 100 feet of a dwelling at a speed greater than the minimum required to maintain controlled forward movement of the vehicle, except under any of the following circumstances:

(i) On property owned by or under the operator's control or on which the operator is an invited guest.

(ii) On a forest road or forest trail if the forest road or forest trail is maintained by or under the jurisdiction of the department.

(iii) On a street, county road, or highway on which ORV use is authorized pursuant to section 81131(2), (3), (5), or (6).

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

(j) In an area on which public hunting is permitted during the regular November firearm deer season, from 7 a.m. to 11 a.m. and from 2 p.m. to 5 p.m., except during an emergency or for law enforcement purposes, to go to and from a permanent residence or a hunting camp otherwise inaccessible by a conventional wheeled vehicle, or to remove from public land a deer, elk, or bear that has been taken under a valid license; except to conduct necessary work functions involving land and timber survey, communication and transmission line patrol, or timber harvest operations; or except on property owned or under control of the operator or on which the operator is an invited guest. A hunter removing game under this subdivision may leave the designated trail or forest road only to retrieve the game and shall not exceed 5 miles per hour. A vehicle registered under the code is exempt from this subdivision while operating on a private road capable of sustaining automobile traffic or a street, county road, or highway. A person holding a valid permit to hunt from a standing vehicle issued under part 401, or a person with a disability using an ORV to access public lands for purposes of hunting or fishing through use of a designated trail or forest road, is exempt from this subdivision. An individual holding a valid permit to hunt from a standing vehicle issued under part 401, or a person with a disability using an ORV to access public lands for purposes of hunting or fishing, may display a flag, the color of which the department shall determine, to identify himself or herself as a person with a disability or an individual holding a permit to hunt from a standing vehicle under part 401.

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

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

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

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

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

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

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

(r) On public land, in a manner contrary to operating regulations.

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

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

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

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

(u) On adjacent private land, in an area zoned residential, within 300 feet of a dwelling at a speed greater than the minimum required to maintain controlled forward movement of the vehicle except under any of the following circumstances:

(i) On a forest road or forest trail if the forest road or forest trail is maintained by or under the jurisdiction of the department.

(ii) On a street, county road, or highway on which ORV use is authorized under section 81131(2), (3), (5), or (6).

(2) Each person who participates in the sport of ORV riding accepts the risks associated with that sport insofar as the dangers are inherent. Those risks include, but are not limited to, injuries to persons or property that can result from variations in terrain; defects in traffic lanes; surface or subsurface snow or ice conditions; bare spots; rocks, trees, and other forms of natural growth or debris; and collisions with fill material, decks, bridges, signs, fences, trail maintenance equipment, or other ORVs. Those risks do not include injuries to persons or property that result from the use of an ORV by another person in a careless or negligent manner likely to endanger person or property. When an ORV is operated in the vicinity of a railroad right-of-way, each person who participates in the sport of ORV riding additionally assumes risks including, but not limited to, entanglement with railroad tracks, switches, and ties and collisions with trains and train-related equipment and facilities.

Sec. 81147. (1) Except as otherwise provided in this part, a person who violates this part is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$50.00 or more than \$1,000.00, or both, for each violation.

(2) A person who violates section 81133(1)(e) by operating an ORV in such a manner as to create an erosive condition or who violates section 81133(1)(i) or (o) is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$250.00 or more than \$1,000.00, or both, for each violation.

(3) A person who violates section 81105, 81107, 81115, 81116, 81121, 81130, or 81133(1)(b), (c), (d), (f), (g), (h), (j), (l), or (m) is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

(4) A person shall not remove, deface, or destroy a sign or marker placed by the department indicating the boundaries of an ORV trail or area or that marks a route.

(5) In addition to the penalties otherwise provided under this part, a court of competent jurisdiction may order a person to restore, as nearly as possible, any land, water, stream bank, streambed, or other natural or geographic formation damaged by the violation of this part to the condition it was in before the violation occurred.

(6) The department or any other peace officer may impound the ORV of a person who commits a violation of this part that is punishable as a misdemeanor or who causes damage to the particular area in which the ORV was used in the commission of the violation.

(7) Upon conviction of a person for violation described in subsection (6), a court of competent jurisdiction may order the ORV and any personal property on the ORV seized as a result of the violation returned to the owner or, upon recommendation of the local prosecuting attorney, turned over to the department. An ORV or any other property turned over to the department under this subsection shall be disposed of in the manner provided for condemnation of property in part 16. The proceeds realized by the department under this subsection shall first be used to restore areas damaged by ORV use, with the balance to be deposited in the off-road vehicle account.

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

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Gay E. Randall

Clerk of the House of Representatives

Approved.....

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Governor