

SENATE BILL No. 68

January 24, 2013, 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 sections 81101, 81129, and 81130 (MCL 324.81101,
324.81129, and 324.81130), section 81101 as amended by 2012 PA 246,
section 81129 as amended by 2008 PA 240, and section 81130 as
amended by 2004 PA 587.

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~~ **HAS**
4 **NONHIGHWAY** tires, ~~has a seat designed to be straddled by the rider,~~
5 **IS 50 INCHES OR LESS IN WIDTH,** and is powered by a 50cc to 1,000cc
6 gasoline engine, ~~or an engine of comparable size using other fuels,~~
7 **OR AN ELECTRIC MOTOR OF COMPARABLE POWER.**

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

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

7 (d) "Designated", unless the context implies otherwise, means
8 posted **AS** open for ORV use with appropriate signs by the
9 department.

10 (e) "Farm vehicle" means either of the following:

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

13 (ii) A vehicle used in connection with a farm operation as that
14 term is defined in section 2 of the Michigan right to farm act,
15 1981 PA 93, MCL 286.472.

16 (f) "Forest road" means a hard surfaced road, gravel or dirt
17 road, or other route capable of travel by a 2-wheel drive, 4-wheel
18 conventional vehicle designed for highway use, except an
19 interstate, state, or county highway.

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

22 (h) "Highway" means the entire width between the boundary
23 lines of a way publicly maintained when any part of the way is open
24 to the use of the public for purposes of vehicular travel.

25 (i) "Highly restricted personal information" means an
26 individual's photograph or image, social security number, digitized
27 signature, and medical and disability information.

(j) "Late model ORV" means an ORV manufactured in the current model year or the 5 model years immediately preceding the current model year.

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

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

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

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

(o) "ORV" or, **UNLESS THE CONTEXT IMPLIES A DIFFERENT MEANING,** "vehicle" means a motor-driven off-road recreation vehicle ~~capable of~~ **DESIGNED PRIMARILY FOR** cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. ~~ORV or vehicle includes, but is not limited to, a~~ **A** multitrack or multiwheel drive vehicle, ~~an ATV,~~ a motorcycle or related 2-wheel **VEHICLE**, **A** 3-wheel, 4-wheel, or 6-wheel vehicle, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation ~~deriving motive power from a source other than muscle or wind.~~ **MAY BE AN ORV. AN ATV OR ROV 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

1 company when performing maintenance on its facilities or on
 2 property over which it has an easement, a construction or logging
 3 vehicle used in performance of its common function, or a registered
 4 aircraft.

5 (P) "ORV SAFETY CERTIFICATE" MEANS AN ORV SAFETY CERTIFICATE
 6 ISSUED UNDER SECTION 81130 OR, EXCEPT AS USED IN SECTION 81130, A
 7 COMPARABLE SAFETY CERTIFICATE ISSUED UNDER THE AUTHORITY OF ANOTHER
 8 STATE OR A PROVINCE OF CANADA.

9 (Q) ~~(p)~~ "Owner" means any of the following:

10 (i) A vendee or lessee of an ORV that is the subject of an
 11 agreement for the conditional sale or lease of the ORV, with the
 12 right of purchase upon performance of the conditions stated in the
 13 agreement, and with an immediate right of possession vested in the
 14 conditional vendee or lessee.

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

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

18 (R) ~~(q)~~ "Person with a disability" means ~~a person~~ **AN**
 19 **INDIVIDUAL** who has 1 or more of the following physical
 20 characteristics:

21 (i) Blindness.

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

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

26 (iv) Inability to ambulate without the prolonged use of a
 27 wheelchair, walker, crutches, braces, or other device required to

1 aid mobility.

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

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

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

14 **(S)** ~~(r)~~ "Personal information" means information that
15 identifies an individual, including an individual's driver
16 identification number, name, address not including zip code, and
17 telephone number, but does not include information on ORV operation
18 or equipment-related violations or civil infractions, operator or
19 vehicle registration status, accidents, or other behaviorally-
20 related information.

21 **(T)** ~~(s)~~ "Public agency" means the department or a local or
22 federal unit of government.

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

27 **(V)** ~~(u)~~ "Route" means a forest road or other road that is

1 designated for purposes of this part by the department.

2 (W) "ROV" MEANS A VEHICLE WITH 4 OR MORE WHEELS THAT IS
3 DESIGNED FOR OFF-ROAD USE, HAS NONHIGHWAY TIRES, IS MORE THAN 50
4 INCHES BUT NOT MORE THAN 65 INCHES IN WIDTH, AND IS POWERED BY A
5 50CC TO 1,000CC GASOLINE ENGINE, AN ENGINE OF COMPARABLE SIZE USING
6 OTHER FUELS, OR AN ELECTRIC MOTOR OF COMPARABLE POWER.

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

11 (Y) ~~(w)~~ "Visual supervision" means the direct observation of
12 the operator with the unaided or normally corrected eye, where the
13 observer is able to come to the immediate aid of the operator.

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

22 (2) Subject to subsection (18), a parent or legal guardian of
23 a child **WHO IS** less than 12 years of age shall not permit the child
24 to operate a 4-wheeled ATV ~~, OR~~ **4-WHEELED ROV** unless the child is
25 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 **OR ROV** used in agricultural

1 operations.

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

4 (4) Subject to subsections (5), (6), (17), and (18), the owner
5 or person in charge of an ORV shall not knowingly permit the
6 vehicle to be operated by a child **WHO IS** less than 16 years of age
7 unless the child is under the direct visual supervision of an adult
8 and the child has **AN ORV SAFETY CERTIFICATE** in his or her immediate
9 possession. ~~an ORV safety certificate issued pursuant to this part~~
10 ~~or a comparable ORV safety certificate issued under the authority~~
11 ~~of another state or a province of Canada.~~

12 (5) Subject to subsection (18), the owner or person in charge
13 of a 4-wheeled ATV **OR 4-WHEELED ROV** shall not knowingly permit the
14 vehicle to be operated by a child **WHO IS** less than 12 years of age
15 ~~unless~~ the child is not less than 10 years of age and is on
16 private land owned by a parent or legal guardian of the child. This
17 subsection does not apply to the operation of an ATV **OR ROV** used in
18 agricultural operations.

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

22 (7) The owner or person in charge of an ORV shall not
23 knowingly permit the vehicle to be operated by ~~a person~~ **AN**
24 **INDIVIDUAL** who is incompetent to operate the vehicle because of
25 mental or physical disability. ~~except as provided in section 81131.~~

26 (8) The department shall implement a comprehensive ORV
27 information, safety education, and training program that ~~shall~~

1 ~~include~~**INCLUDES** the training of operators and the preparation and
2 dissemination of information and safety advice to the public. The
3 program shall provide for the training of youthful operators and
4 for the issuance of ORV safety certificates to those who
5 successfully complete the training provided under the program and
6 may include separate instruction for each type of ORV.

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

15 (10) The department may designate a ~~person it considers~~
16 qualified **INDIVIDUAL** to provide course instruction and to award ORV
17 safety certificates.

18 (11) The department may promulgate rules to implement
19 subsections (8) to (10) and (18).

20 (12) Subject to subsections (13), (14), (17), and (18), a
21 child who is less than 16 years of age shall not operate an ORV
22 unless the child is under the direct visual supervision of an adult
23 and the child has **AN ORV SAFETY CERTIFICATE** in his or her immediate
24 possession. ~~an ORV safety certificate issued pursuant to this~~
25 ~~section or a comparable ORV safety certificate issued under the~~
26 ~~authority of another state or a province of Canada.~~

27 (13) Subject to subsection (18), a child who is less than 12

1 years of age shall not operate a 4-wheeled ATV ~~—OR 4-WHEELED ROV~~
2 unless the child is not less than 10 years of age and is on private
3 land owned by a parent or legal guardian of the child. This
4 subsection does not apply to the operation of an ATV **OR ROV** used in
5 agricultural operations.

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

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

11 (16) Notwithstanding any other provision of this section, an
12 operator who is less than 12 years of age shall not cross a highway
13 or street. An operator who is not less than 12 years of age but
14 less than 16 years of age may cross a highway or street or operate
15 on the right-of-way or shoulder of roads and streets on which ORV
16 use is authorized pursuant to section 81131(2), (3), or (5) if the
17 operator has ~~a valid~~ **AN** ORV safety certificate in his or her
18 immediate possession and meets any other requirements under this
19 section for operation of the vehicle.

20 (17) The requirement of possession or presentation of an ORV
21 safety certificate under this section does not apply until
22 implementation of the program for the vehicle proposed to be
23 operated required by subsection (8).

24 (18) The requirement that a child possess an ORV safety
25 certificate to operate an ORV, and the requirement that a child who
26 is less than 12 years of age not operate a 4-wheeled ATV **OR 4-**
27 **WHEELED ROV** unless the child is not less than 10 years of age and

1 is on private land owned by a parent or legal guardian of the
2 child, do not apply if all of the following requirements are met:

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

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

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

10 (d) A physician or physician's assistant licensed or otherwise
11 authorized under part 170 or 175 of the public health code, 1978 PA
12 368, MCL 333.17001 to 333.17084 and 333.17501 to 333.17556, or a
13 paramedic or emergency medical technician licensed under part 209
14 of the public health code, 1978 PA 368, MCL 333.20901 to 333.20979,
15 is present at the site of the event or available on call.

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

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

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

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

27 (i) Any ~~ATVs~~ **ORVS** used by participants are equipped with a

1 side step bar or comparable safety equipment and with a tether kill
2 switch, and the tether is used by all participants.

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

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

9 (19) If a child **WHO IS** less than 16 years of age participates
10 and is injured in an organized ORV riding or racing event, the
11 organizer of the event shall, within 30 days after the event,
12 submit to the department a report on a form developed by the
13 department. The report shall include all of the following
14 **INFORMATION**, as applicable:

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

18 (b) The age of the child.

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

23 (d) The type of ORV operated.

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

25 (20) By December 31 of each year, the department shall submit
26 to the legislature a report that summarizes reports received under
27 subsection (19) during the preceding calendar year. In the report,

1 the department may recommend amendments to this part to improve the
2 safety of children **WHO ARE** less than 16 years of age participating
3 in organized ORV riding or racing events.

4 (21) The requirements of this section are in addition to any
5 applicable requirements of section 81131(9).

6 Sec. 81130. (1) ~~A person~~ **AN INDIVIDUAL** who is ~~under~~ **LESS THAN**
7 16 years of age, before operating an ~~ATV or~~ ORV, shall complete an
8 ORV safety education course approved by the department. ~~This~~ **THE**
9 course may include a written examination and a driving test
10 designed to test the competency of the applicant. Upon successful
11 completion of ~~this~~ **THE** safety education course, ~~a person~~ **AN**
12 **INDIVIDUAL** shall receive an ORV safety certificate.

13 (2) A safety education course **MAY BE** conducted by a college or
14 university, an intermediate school district, a local school
15 district, a law enforcement agency, or another governmental agency
16 located in this state, ~~or by a department approved nonprofit~~
17 ~~service organization, shall be conducted in compliance with this~~
18 ~~section.~~ **OR BY A PRIVATE BUSINESS.** An agency or a school conducting
19 a course under this subsection may apply to the department for a
20 grant from the off-road vehicle account for costs associated with
21 conducting a course.

22 (3) ~~Except for a course conducted by a private business~~
23 ~~enterprise as provided by subsection (4), an applicant for~~ **A PERSON**
24 **OTHER THAN A PRIVATE BUSINESS CONDUCTING** a safety education course
25 **REQUIRED** under this section shall ~~pay not more than a \$25.00~~ **NOT**
26 **CHARGE A** course fee **OF MORE THAN \$25.00** or, in the case of a
27 university or community college, ~~a fee not more than the cost of 1~~

1 credit hour of instruction. The course fees shall only be used for
2 funding the administration and implementation of the course.

3 ~~(4) An ATV or ORV, or both, safety education course required~~
4 ~~by this section and approved by the department may be conducted by~~
5 ~~a private business enterprise. A private business enterprise may~~
6 charge a course fee not to exceed the cost of conducting the
7 course.

8 (5) The director shall designate ~~a person~~ **AN INDIVIDUAL** to be
9 the state coordinator of the ~~ATV and ORV~~ safety education program.
10 ~~A person designated under this subsection shall have successfully~~
11 ~~completed ATV and ORV safety courses.~~

12 ~~——(6) The director shall~~ **ALSO** designate ~~a person who has~~
13 ~~successfully completed ATV and ORV safety courses~~ **AN INDIVIDUAL** to
14 perform annual inspections of course sites. **AN INDIVIDUAL IS NOT**
15 **QUALIFIED TO BE DESIGNATED UNDER THIS SUBSECTION UNLESS THE**
16 **INDIVIDUAL HAS SUCCESSFULLY COMPLETED AN ORV SAFETY COURSE.**