

SENATE BILL NO. 923

May 13, 2020, Introduced by Senator MCBROOM and referred to the Committee on Natural Resources.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 81133 (MCL 324.81133), as amended by 2018 PA 206.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 81133. (1) An individual 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) During the hours of 1/2 hour after sunset to 1/2 hour

1 before sunrise without displaying a lighted headlight and lighted
2 taillight. The requirements of this subdivision are in addition to
3 any applicable requirements of section 81131(12).

4 (c) Unless the vehicle is equipped with a braking system that
5 may be operated by hand or foot, capable of producing deceleration
6 at 14 feet per second on level ground at a speed of 20 miles per
7 hour; a brake light, brighter than the taillight, visible from
8 behind the vehicle when the brake is activated, if the vehicle is
9 operated during the hours of 1/2 hour after sunset and 1/2 hour
10 before sunrise; and a throttle so designed that when the pressure
11 used to advance the throttle is removed, the engine speed will
12 immediately and automatically return to idle.

13 (d) In a state game area or state park or recreation area,
14 except on roads, trails, or areas designated for this purpose,
15 notwithstanding section 72118; on other state-owned lands under the
16 control of the department where the operation would be in violation
17 of rules promulgated by the department; in a forest nursery or
18 planting area; on public lands posted or reasonably identifiable as
19 an area of forest reproduction, and when growing stock may be
20 damaged; in a dedicated natural area of the department; or in any
21 area in such a manner as to create an erosive condition, or to
22 injure, damage, or destroy trees or growing crops. However, the
23 department may permit an owner and guests of the owner to use an
24 ORV within the boundaries of a state forest in order to access the
25 owner's property.

26 (e) On the frozen surface of public waters within 100 feet of
27 an individual not in or upon a vehicle, or within 100 feet of a
28 fishing shanty or shelter or an area that is cleared of snow for
29 skating purposes, except at the minimum speed required to maintain

1 controlled forward movement of the vehicle, or as may be authorized
2 by permit in special events.

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

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

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

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

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

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

15 (i) In an area on which public hunting is permitted during the
16 regular November firearm deer season, from 7 a.m. to 11 a.m. and
17 from 2 p.m. to 5 p.m., except as follows:

18 (i) During an emergency.

19 (ii) For law enforcement purposes.

20 (iii) To go to and from a permanent residence or a hunting camp
21 otherwise inaccessible by a conventional wheeled vehicle.

22 (iv) To remove legally harvested deer, bear, or elk from public
23 land. An individual shall operate an ORV under this subparagraph at
24 a speed not exceeding 5 miles per hour, using the most direct route
25 that complies with subdivision (n).

26 (v) To conduct necessary work ~~functions~~ involving land ~~and-or~~
27 timber survey, communication ~~and-or~~ transmission line patrol, or
28 timber harvest operations.

29 (vi) On property owned or under control of the operator or on

1 which the operator is an invited guest.

2 (vii) While operating a vehicle registered under the code on a
3 private road capable of sustaining automobile traffic or a street,
4 county road, or highway.

5 (viii) If the individual holds a valid permit to hunt from a
6 standing vehicle issued under part 401 or is a person with a
7 disability using an ORV to access public lands for purposes of
8 hunting or fishing through use of a designated trail or forest
9 road. An individual holding a valid permit to hunt from a standing
10 vehicle issued under part 401, or a person with a disability using
11 an ORV to access public lands for purposes of hunting or fishing,
12 may display a flag, the color of which the department shall
13 determine, to identify himself or herself as a person with a
14 disability or an individual holding a permit to hunt from a
15 standing vehicle under part 401.

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

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

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

26 (m) On an operating or nonabandoned railroad or railroad
27 right-of-way, or public utility right-of-way, other than for the
28 purpose of crossing at a clearly established site intended for
29 vehicular traffic, except railroad, public utility, or law

1 enforcement personnel while in performance of their duties, and
2 except if the right-of-way is designated as provided for in section
3 81127.

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

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

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

10 (q) On public land, in a manner contrary to operating
11 regulations.

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

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

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

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

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

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

1 department.

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

4 (u) On a forest trail if the ORV is greater than 50 inches in
5 width.

6 (2) An individual who is operating or is a passenger on an ORV
7 shall wear a crash helmet and protective eyewear that are approved
8 by the United States Department of Transportation. This subsection
9 does not apply to any of the following:

10 (a) An individual who owns the property on which the ORV is
11 operating, is a family member of the owner and resides at that
12 property, or is an invited guest of ~~an individual who owns~~ **an owner**
13 **of** the property. An exception under this subdivision does not apply
14 to any of the following:

15 (i) An individual less than 16 years of age.

16 (ii) An individual 16 or 17 years of age, unless the individual
17 has consent from his or her parent or guardian to ride without a
18 crash helmet.

19 (iii) An individual participating in an organized ORV riding or
20 racing event if an individual who owns the property receives
21 consideration for use of the property for operating ORVs.

22 (b) An individual wearing a properly adjusted and fastened
23 safety belt if the ORV is equipped with a roof that meets or
24 exceeds United States Department of Transportation standards for a
25 crash helmet.

26 (c) **An individual who possesses a written verification from a**
27 **physician that the individual, for physical or medical reasons, is**
28 **unable to wear a helmet.**

29 (d) ~~(e)~~ An ORV operated on a state-licensed game bird hunting

1 preserve at a speed of not greater than 10 miles per hour.

2 (e) ~~(d)~~—An ORV operated for the purpose of towing a fishing
3 shanty or supply shed over the frozen surface of public waters at
4 the minimum speed required to maintain controlled forward movement
5 of the vehicle or while traveling to and from a fishing shanty at a
6 speed of not greater than 10 miles per hour. An owner of private
7 property is not liable for personal injuries, including death, to
8 an individual who operates an ORV as described in this subdivision
9 without wearing a helmet while traveling on the owner's property.

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