

HOUSE BILL NO. 6245

December 04, 2024, Introduced by Reps. Wilson and Rheingans and referred to the Committee on Natural Resources, Environment, Tourism and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 80103, 80104, 80176, 80181, 80182, 80183, 80187, 81101, 81134, 81136, 81137, 81144, 82101, 82127, 82137, 82138, 82139, and 82143 (MCL 324.80103, 324.80104, 324.80176, 324.80181, 324.80182, 324.80183, 324.80187, 324.81101, 324.81134, 324.81136, 324.81137, 324.81144, 324.82101, 324.82127, 324.82137, 324.82138, 324.82139, and 324.82143), sections 80103, 80181, 80182, 82137, and 82138 as added by 1995 PA 58, sections 80104, 81134, and

82101 as amended by 2020 PA 385, sections 80176, 80183, and 80187 as amended by 2014 PA 402, section 81101 as amended by 2023 PA 210, sections 81136, 81137, and 81144 as amended by 2014 PA 405, and sections 82127, 82139, and 82143 as amended by 2014 PA 404.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 80103. As used in this part:

2 (a) "Manufacturer" means a person engaged in any of the
3 following:

4 (i) The manufacture, construction, or assembly of boats or
5 associated equipment.

6 (ii) The manufacture or construction of components for boats
7 and associated equipment to be sold for subsequent assembly.

8 (iii) The importation of a boat or associated equipment into the
9 state for sale.

10 (b) "Marine law" means this part, a local ordinance adopted in
11 conformity with this part, or a rule promulgated under this part.

12 (c) "Marine safety act" means former ~~Act No. 303 of the Public~~
13 ~~Acts of 1967.~~ **1967 PA 303.**

14 (d) "Marine safety program" means marine law enforcement,
15 search and rescue operations, water safety education, recovery of
16 drowned bodies, and boat livery inspections.

17 (e) **"Marihuana" means that term as defined in section 3 of the**
18 **Michigan regulation and taxation of marihuana act, 2018 IL 1,**
19 **333.27953.**

20 (f) ~~(e)~~-"Michigan vehicle code" means ~~Act No. 300 of the~~
21 ~~Public Acts of 1949, being sections 257.1 to 257.923 of the~~
22 ~~Michigan Compiled Laws.~~ **1949 PA 300, MCL 257.1 to 257.923.**

23 (g) ~~(f)~~-"Motorboat" means a vessel propelled wholly or in part
24 by machinery.

1 (h) ~~(g)~~—"Operate" means to be in control of a vessel while the
2 vessel is under way and is not secured in some manner such as being
3 docked or at anchor.

4 (i) ~~(h)~~—"Operator" means the person who is in control or in
5 charge of a vessel while that vessel is underway.

6 (j) ~~(i)~~—"Owner" means a person who claims or is entitled to
7 lawful possession of a vessel by virtue of that person's legal
8 title or equitable interest in a vessel.

9 Sec. 80104. As used in this part:

10 (a) "Highly restricted personal information" means an
11 individual's photograph or image, Social Security number, digitized
12 signature, and medical and disability information.

13 (b) "Passenger" means an individual carried on board, attached
14 to, or towed by a vessel, other than the operator.

15 (c) "Peace officer" means any of the following:

16 (i) A sheriff.

17 (ii) A sheriff's deputy.

18 (iii) A deputy who is authorized by a sheriff to enforce this
19 part and who has satisfactorily completed at least 40 hours of law
20 enforcement training, including training specific to this part.

21 (iv) A village or township marshal.

22 (v) An officer of the police department of a municipality.

23 (vi) An officer of the department of state police.

24 (vii) The director and conservation officers employed by the
25 department.

26 (d) "Personal information" means information that identifies
27 an individual, including an individual's driver license number,
28 name, address not including zip code, and telephone number, but
29 does not include information on watercraft operation and equipment-

1 related violations or civil infractions, operator or vehicle
2 registration status, accidents, or other behaviorally related
3 information.

4 (e) "Personal watercraft" means that term as defined in 40 CFR
5 1045.801.

6 (f) "Political subdivision" means a county, metropolitan
7 authority, municipality, or combination of those entities in this
8 state. If a body of water is located in more than 1 political
9 subdivision, all of the subdivisions shall act individually in
10 order to comply with this part, except that if the problem is
11 confined to a specific area of the body of water, only the
12 political subdivision in which the problem waters lie shall act.

13 (g) "Port" means left, and reference is to the port side of a
14 vessel or to the left side of the vessel.

15 (h) "Prior conviction" means a conviction for any of the
16 following, whether under a law of this state, a local ordinance
17 substantially corresponding to a law of this state, a law of the
18 United States substantially corresponding to a law of this state,
19 or a law of another state substantially corresponding to a law of
20 this state:

21 (i) A violation or an attempted violation of section 80176(1),
22 (3), (4), (5), (6), or (7), except that only 1 violation or
23 attempted violation of section 80176(6), a local ordinance
24 substantially corresponding to section 80176(6), a law of another
25 state substantially corresponding to section 80176(6), or a law of
26 the United States substantially corresponding to section 80176(6)
27 may be used as a prior conviction other than for enhancement
28 purposes as provided in section 80178a(1)(b).

29 (ii) Negligent homicide, manslaughter, or murder resulting from

1 the operation of a vessel or an attempt to commit any of those
2 crimes.

3 (iii) Former section 73, 73b, or 171(1) of the marine safety
4 act.

5 (i) "Probate court or family division disposition" means the
6 entry of a probate court order of disposition or family division
7 order of disposition for a child found to be within the provisions
8 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL
9 712A.1 to 712A.32.

10 (j) "Prosecuting attorney", unless the context requires
11 otherwise, means the attorney general, prosecuting attorney of a
12 county, or attorney representing a political subdivision of
13 government.

14 (k) "Regatta", "boat race", "marine parade", "tournament", or
15 "exhibition" means an organized water event of limited duration
16 that is conducted according to a prearranged schedule.

17 (l) "Slow-no wake speed" means a very slow speed whereby the
18 wake or wash created by the vessel would be minimal.

19 (m) "Specialty court program" means a program under any of the
20 following:

21 (i) A drug treatment court, as defined in section 1060 of the
22 revised judicature act of 1961, 1961 PA 236, MCL 600.1060, in which
23 the participant is an adult.

24 (ii) A DWI/sobriety court, as defined in section 1084 of the
25 revised judicature act of 1961, 1961 PA 236, MCL 600.1084.

26 (iii) A hybrid of the programs under subparagraphs (i) and (ii).

27 (iv) A mental health court as defined in section 1090 of the
28 revised judicature act of 1961, 1961 PA 236, MCL 600.1090.

29 (v) A veterans treatment court, as defined in section 1200 of

1 the revised judicature act of 1961, 1961 PA 236, MCL 600.1200.

2 (n) "Starboard" means right, and reference is to the starboard
3 side of a vessel or to the right side of the vessel.

4 (o) "State aid" means payment made by this state to a county
5 for the conduct of a marine safety program.

6 (p) **"THC" means that term as defined in section 3 of the**
7 **Michigan regulation and taxation of marihuana act, 2018 IL 1,**
8 **333.27953.**

9 (q) ~~(p)~~ "Temporary ordinance" means a type of local ordinance
10 adopted by a political subdivision of this state under section
11 80112a that includes, but is not limited to, a local watercraft
12 control or administrative rule.

13 (r) ~~(q)~~ "Undocumented vessel" means a vessel that does not
14 have, and is not required to have, a valid marine document issued
15 by the United States Coast Guard or federal agency successor to the
16 United States Coast Guard.

17 (s) ~~(r)~~ "Uniform inspection decal" means an adhesive-backed
18 sticker created by the department that is color-coded to indicate
19 the year that it expires and is attached to a vessel in the manner
20 prescribed for decals in section 80122 when a peace officer
21 inspects and determines that the vessel complies with this part.

22 (t) ~~(s)~~ "Use" means operate, navigate, or employ.

23 (u) ~~(t)~~ "Vessel" means every description of watercraft used or
24 capable of being used as a means of transportation on water.

25 (v) ~~(u)~~ "Waters of this state" means any waters within the
26 territorial limits of this state, and includes those waters of the
27 Great Lakes that are under the jurisdiction of this state.

28 (w) ~~(v)~~ "Waterways account" means the waterways account
29 established in section 2035.

1 Sec. 80176. (1) A person shall not operate a motorboat on the
2 waters of this state if any of the following apply:

3 (a) The person is under the influence of alcoholic liquor or a
4 controlled substance, or both.

5 (b) The person has a blood alcohol content of 0.08 grams or
6 more per 100 milliliters of blood, per 210 liters of breath, or per
7 67 milliliters of urine.

8 (c) The person has in his or her body any amount of a
9 controlled substance listed in schedule 1 under section 7212 of the
10 public health code, 1978 PA 368, MCL 333.7212, or a rule
11 promulgated under that section, or of a controlled substance
12 described in section 7214(a) (iv) of the public health code, 1978 PA
13 368, MCL 333.7214.

14 (2) The owner of a motorboat or a person in charge or in
15 control of a motorboat shall not authorize or knowingly permit the
16 motorboat to be operated on the waters of this state by a person if
17 any of the following apply:

18 (a) The person is under the influence of alcoholic liquor or a
19 controlled substance, or both.

20 (b) The person has a blood alcohol content of 0.08 grams or
21 more per 100 milliliters of blood, per 210 liters of breath, or per
22 67 milliliters of urine.

23 (c) The person's ability to operate the motorboat is visibly
24 impaired due to the consumption of alcoholic liquor, **marihuana, or**
25 **a controlled substance, or ~~a-of any combination of alcoholic liquor~~**
26 **~~and a controlled substance.~~ thereof.**

27 (3) A person shall not operate a motorboat on the waters of
28 this state when, due to the consumption of an alcoholic liquor,
29 **marihuana, or a controlled substance, or ~~both,~~ of any combination**

1 **thereof**, the person's ability to operate the motorboat is visibly
2 impaired. If a person is charged with violating subsection (1), a
3 finding of guilty under this subsection may be rendered.

4 (4) A person who operates a motorboat on the waters of this
5 state in violation of subsection (1) or (3) and by the operation of
6 that motorboat causes the death of another person is guilty of a
7 felony, punishable by imprisonment for not more than 15 years, or a
8 fine of not less than \$2,500.00 or more than \$10,000.00, or both.

9 (5) A person who operates a motorboat on the waters of this
10 state in violation of subsection (1) or (3) and by the operation of
11 that motorboat causes a serious impairment of a body function of
12 another person is guilty of a felony, punishable by imprisonment
13 for not more than 5 years, or a fine of not less than \$1,000.00 or
14 more than \$5,000.00, or both. As used in this subsection, "serious
15 impairment of a body function" means that term as defined in
16 section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

17 (6) A person who is less than 21 years of age, whether
18 licensed or not, shall not operate a motorboat on the waters of
19 this state if the person has any bodily alcohol content. As used in
20 this subsection, "any bodily alcohol content" means either of the
21 following:

22 (a) An alcohol content of 0.02 grams or more but less than
23 0.08 grams per 100 milliliters of blood, per 210 liters of breath,
24 or per 67 milliliters of urine.

25 (b) Any presence of alcohol within a person's body resulting
26 from the consumption of alcoholic liquor, other than consumption of
27 alcoholic liquor as a part of a generally recognized religious
28 service or ceremony.

29 (7) A person, whether licensed or not, is subject to the

1 following requirements:

2 (a) He or she shall not operate a motorboat in violation of
3 subsection (1), (3), (4), or (5) while another person who is less
4 than 16 years of age is occupying the motorboat.

5 (b) He or she shall not operate a motorboat in violation of
6 subsection (6) while another person who is less than 16 years of
7 age is occupying the motorboat.

8 (8) As used in this section, "operate" means to be in control
9 of a vessel propelled wholly or in part by machinery while the
10 vessel is underway and is not docked, at anchor, idle, or otherwise
11 secured.

12 Sec. 80181. (1) The following apply with respect to a chemical
13 test and analysis of a person's blood, urine, or breath, other than
14 a preliminary chemical breath analysis:

15 (a) The amount of alcohol, **the amount or presence of THC**, or
16 **the** presence of a controlled substance, or ~~both,~~ **any combination**
17 **thereof**, in an operator's blood at the time alleged as shown by
18 chemical analysis of the person's blood, urine, or breath is
19 admissible into evidence in any civil or criminal proceeding.

20 (b) A person arrested for a crime described in section
21 80187(1) shall be advised of all of the following:

22 (i) That if the person takes a chemical test of his or her
23 blood, urine, or breath administered at the request of a peace
24 officer, the person has the right to demand that someone of the
25 person's own choosing administer 1 of the chemical tests; that the
26 results of the test are admissible in a judicial proceeding as
27 provided under this part and shall be considered with other
28 competent evidence in determining the innocence or guilt of the
29 defendant; and that the person is responsible for obtaining a

1 chemical analysis of a test sample obtained pursuant to the
2 person's own request.

3 (ii) That if the person refuses the request of a peace officer
4 to take a test described in subparagraph (i), the test shall not be
5 given without a court order, but the peace officer may seek to
6 obtain such a court order.

7 (iii) That the person's refusal of the request of a peace
8 officer to take a test described in subparagraph (i) will result in
9 issuance of an order that the person not operate a vessel on the
10 waters of this state for at least 6 months.

11 (2) A sample or specimen of urine or breath shall be taken and
12 collected in a reasonable manner. Only a licensed physician, or a
13 licensed nurse or medical technician under the direction of a
14 licensed physician, qualified to withdraw blood and acting in a
15 medical environment, may withdraw blood at the request of a peace
16 officer for the purpose of determining the amount of alcohol, **the**
17 **amount or presence of THC**, or **the** presence of a controlled
18 substance, or ~~both, any combination thereof~~, in a person's blood,
19 as provided in this subsection. A qualified person who withdraws or
20 analyzes blood, or assists in the withdrawal or analysis, in
21 accordance with this part is not liable for a crime or civil
22 damages predicated on the act of withdrawing or analyzing blood and
23 related procedures unless the withdrawal or analysis is performed
24 in a negligent manner.

25 (3) A rule relating to a chemical test for alcohol, **THC**, or a
26 controlled substance promulgated under the Michigan vehicle code,
27 ~~Act No. 300 of the Public Acts of 1949, being sections 257.1 to~~
28 ~~257.923 of the Michigan Compiled Laws, 1949 PA 300, MCL 257.1 to~~
29 **257.923**, applies to a chemical test administered under this part.

1 Sec. 80182. (1) A chemical test described in section 80181
2 shall be administered at the request of a peace officer having
3 reasonable grounds to believe the person has committed a crime
4 described in section 80187(1). A person who takes a chemical test
5 administered at the request of a peace officer, as provided in
6 section 80181, shall be given a reasonable opportunity to have
7 someone of the person's own choosing administer 1 of the chemical
8 tests described in section 80181 within a reasonable time after the
9 person's detention, and the results of the test are admissible and
10 shall be considered with other competent evidence in determining
11 the innocence or guilt of the defendant. If the person charged is
12 administered a chemical test by someone of the person's own
13 choosing, the person charged is responsible for obtaining a
14 chemical analysis of the test sample.

15 (2) If, after an accident, the operator of a vessel involved
16 in the accident is transported to a medical facility and a sample
17 of the operator's blood is withdrawn at that time for the purpose
18 of medical treatment, the results of a chemical analysis of that
19 sample are admissible in any civil or criminal proceeding to show
20 the amount of alcohol, ~~or the amount or presence of THC, or the~~
21 **presence of a controlled substance, or both, any combination**
22 **thereof**, in the person's blood at the time alleged, regardless of
23 whether the person had been offered or had refused a chemical test.
24 The medical facility or person performing the chemical analysis
25 shall disclose the results of the analysis to a prosecuting
26 attorney who requests the results for use in a criminal prosecution
27 as provided in this subsection. A medical facility or person
28 disclosing information in compliance with this subsection is not
29 civilly or criminally liable for making the disclosure.

1 (3) If, after an accident, the operator of a vessel involved
2 in the accident is deceased, a sample of the decedent's blood shall
3 be withdrawn in a manner directed by the medical examiner for the
4 purpose of determining the amount of alcohol, ~~or the amount or~~
5 **presence of THC, or** the presence of a controlled substance, or
6 ~~both, any combination thereof,~~ in the decedent's blood. The medical
7 examiner shall give the results of the chemical analysis of the
8 sample to the law enforcement agency investigating the accident,
9 and that agency shall forward the results to the department.

10 Sec. 80183. (1) The provisions of sections 80181 and 80182
11 relating to chemical testing do not limit the introduction of any
12 other competent evidence bearing upon the question of whether or
13 not a person was impaired by, or under the influence of, alcoholic
14 liquor, ~~or marihuana, or~~ a controlled substance, ~~or both, or any~~
15 **combination thereof,** or whether the person had a blood alcohol
16 content of 0.08 grams or more per 100 milliliters of blood, per 210
17 liters of breath, or per 67 milliliters of urine, or whether the
18 person had any amount of a controlled substance listed in schedule
19 1 under section 7212 of the public health code, 1978 PA 368, MCL
20 333.7212, or a rule promulgated under that section, or of a
21 controlled substance described in section 7214(a) (iv) of the public
22 health code, 1978 PA 368, MCL 333.7214, in his or her body.

23 (2) If a chemical test described in sections 80181 and 80182
24 is administered, the results of the test shall be made available to
25 the person charged or the person's attorney upon written request to
26 the prosecution, with a copy of the request filed with the court.
27 The prosecution shall furnish the results at least 2 days before
28 the day of the trial. The results of the test shall be offered as
29 evidence by the prosecution in that trial. Failure to fully comply

1 with the request bars the admission of the results into evidence by
2 the prosecution.

3 Sec. 80187. (1) A person who operates a motorboat on the
4 waters of this state is considered to have given consent to
5 chemical tests of his or her blood, breath, or urine for the
6 purpose of determining the amount of alcohol, **the amount or**
7 **presence of THC**, or **the** presence of a controlled substance, or
8 ~~both, any combination thereof~~, in his or her blood in all of the
9 following circumstances:

10 (a) The person is arrested for a violation of section
11 80176(1), (3), (4), (5), (6), or (7), or a local ordinance
12 substantially corresponding to section 80176(1), (3), or (6).

13 (b) The person is arrested for negligent homicide,
14 manslaughter, or murder resulting from the operation of a
15 motorboat, and the peace officer had reasonable grounds to believe
16 that the person was operating the motorboat in violation of section
17 80176.

18 (2) A person who is afflicted with hemophilia, diabetes, or a
19 condition requiring the use of an anticoagulant under the direction
20 of a physician shall not be considered to have given consent to the
21 withdrawal of blood.

22 (3) A chemical test described in subsection (1) shall be
23 administered as provided in sections 80181 and 80182.

24 Sec. 81101. As used in this part:

25 (a) "Alcoholic liquor" means that term as defined in section
26 1d of the Michigan vehicle code, 1949 PA 300, MCL 257.1d.

27 (b) "ATV" means a vehicle with 3 or more wheels that is
28 designed for off-road use, has low-pressure tires, has a seat
29 designed to be straddled by the rider, and is powered by a 50cc to

1 1,000cc gasoline engine or an engine of comparable size using other
2 fuels.

3 (c) "Code" means the Michigan vehicle code, 1949 PA 300, MCL
4 257.1 to 257.923.

5 (d) "County road" means a county primary road or county local
6 road as described in section 5 of 1951 PA 51, MCL 247.655, or a
7 segment thereof.

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

12 (f) "Designated", unless the context implies otherwise, means
13 posted by the department, with appropriate signs, as open for ORV
14 use.

15 (g) "Farm vehicle" means either of the following:

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

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

21 (h) "Forest road" means a hard surfaced road, gravel or dirt
22 road, or other route capable of travel by a 2-wheel drive, 4-wheel
23 conventional vehicle designed for road use. Forest road does not
24 include a street, county road, or highway.

25 (i) "Forest trail" means a designated path or way that is not
26 a route.

27 (j) "Highway" means a state trunk line highway or a segment of
28 a state trunk line highway.

29 (k) "Highly restricted personal information" means an

1 individual's photograph or image, Social Security number, digitized
2 signature, and medical and disability information.

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

6 (m) "Law of another state" means a law or ordinance enacted by
7 any of the following:

8 (i) Another state.

9 (ii) A local unit of government in another state.

10 (iii) Canada or a province or territory of Canada.

11 (iv) A local unit of government in a province or territory of
12 Canada.

13 (n) "Local unit of government" means a county, township, or
14 municipality.

15 (o) "Maintained portion" means the roadway and any shoulder of
16 a street, county road, or highway.

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

20 (q) **"Marihuana" means that term as defined in section 3 of the**
21 **Michigan regulation and taxation of marihuana act, 2018 IL 1,**
22 **333.27953.**

23 (r) ~~(q)~~—"Municipality" means a city or village.

24 (s) ~~(r)~~—"Off-road vehicle account" means the off-road vehicle
25 account of the Michigan conservation and recreation legacy fund
26 established in section 2015.

27 (t) ~~(s)~~—"Operate" means to ride in or on, and be in actual
28 physical control of, the operation of an ORV.

29 (u) ~~(t)~~—"Operator" means an individual who operates or is in

1 actual physical control of the operation of an ORV.

2 **(v)** ~~(u)~~ "ORV" or, unless the context implies a different
 3 meaning, "vehicle" means a motor-driven off-road recreation vehicle
 4 capable of cross-country travel without benefit of a road or trail,
 5 on or immediately over land, snow, ice, marsh, swampland, or other
 6 natural terrain. A multitrack or multiwheel drive vehicle, a
 7 motorcycle or related 2-wheel vehicle, a vehicle with 3 or more
 8 wheels, an amphibious machine, a ground effect air cushion vehicle,
 9 or other means of transportation may be an ORV. An ATV is an ORV.
 10 ORV or vehicle does not include a registered snowmobile, a farm
 11 vehicle being used for farming, a vehicle used for military, fire,
 12 emergency, or law enforcement purposes, a vehicle owned and
 13 operated by a utility company or an oil or gas company when
 14 performing maintenance on its facilities or on property over which
 15 it has an easement, a construction or logging vehicle used in
 16 performance of its common function, or a registered aircraft.

17 **(w)** ~~(v)~~ "ORV safety certificate" means an ORV safety
 18 certificate issued under section 81130 or, except as used in
 19 section 81130, a comparable safety certificate issued under the
 20 authority of another state or province of Canada.

21 **(x)** ~~(w)~~ "Owner" means any of the following:

22 (i) A vendee or lessee of an ORV that is the subject of an
 23 agreement for the conditional sale or lease of the ORV, with the
 24 right of purchase upon performance of the conditions stated in the
 25 agreement, and with an immediate right of possession vested in the
 26 conditional vendee or lessee.

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

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

1 **(y)** ~~(x)~~—"Peace officer" means any of the following:

2 (i) A sheriff.

3 (ii) A sheriff's deputy.

4 (iii) A deputy who is authorized by a sheriff to enforce this
5 part and who has satisfactorily completed at least 40 hours of law
6 enforcement training, including training specific to this part.

7 (iv) A village or township marshal.

8 (v) An officer of the police department of a municipality.

9 (vi) An officer of the department of state police.

10 (vii) The director and conservation officers employed by the
11 department.

12 **(z)** ~~(y)~~—"Person with a disability" means an individual who has
13 1 or more of the following physical characteristics:

14 (i) Blindness.

15 (ii) Inability, during some time of the year, to ambulate more
16 than 200 feet without having to stop and rest.

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

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

21 (v) A lung disease from which the individual's expiratory
22 volume for 1 second, measured by spirometry, is less than 1 liter,
23 or from which the individual's arterial oxygen tension is less than
24 60 mm/hg of room air at rest.

25 (vi) A cardiovascular disease that causes the individual to
26 measure between 3 and 4 on the New York heart classification scale,
27 or that results in a marked limitation of physical activity by
28 causing fatigue, palpitation, dyspnea, or anginal pain.

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

4 **(aa)** ~~(z)~~ "Personal information" means information that
5 identifies an individual, including an individual's driver
6 identification number, name, address not including zip code, and
7 telephone number, but does not include information on ORV operation
8 or equipment-related violations or civil infractions, operator or
9 vehicle registration status, accidents, or other behaviorally
10 related information.

11 **(bb)** ~~(aa)~~ "Prior conviction" means a conviction for any of the
12 following, whether under a law of this state, a local ordinance
13 substantially corresponding to a law of this state, a law of the
14 United States substantially corresponding to a law of this state,
15 or a law of another state substantially corresponding to a law of
16 this state:

17 (i) A violation or an attempted violation of section 81134(1),
18 (3), (4), (5), (6), or (7), except that only 1 violation or
19 attempted violation of section 81134(6), a local ordinance
20 substantially corresponding to section 81134(6), a law of another
21 state substantially corresponding to section 81134(6), or a law of
22 the United States substantially corresponding to section 81134(6)
23 may be used as a prior conviction other than for enhancement
24 purposes as provided in section 81134(11) (b).

25 (ii) Negligent homicide, manslaughter, or murder resulting from
26 the operation of an ORV, or an attempt to commit any of those
27 crimes.

28 (iii) Former section 81135.

29 **(cc)** ~~(bb)~~ "Public agency" means the department or a local or

1 federal unit of government.

2 **(dd)** ~~(ee)~~—"Roadway" means the portion of a street, county
3 road, or highway improved, designed, or ordinarily used for travel
4 by vehicles registered under the code. Roadway does not include the
5 shoulder.

6 **(ee)** ~~(dd)~~—"Route" means a forest road or other road that is
7 designated for purposes of this part by the department.

8 **(ff)** ~~(ee)~~—"Safety chief instructor" means an individual who
9 has been certified by a nationally recognized ORV organization to
10 certify instructors and to do on-sight evaluations of instructors.

11 **(gg)** ~~(ff)~~—"Shoulder" means that portion of a street, county
12 road, or highway contiguous to the roadway and generally extending
13 the contour of the roadway, not designed for vehicular travel but
14 maintained for the temporary accommodation of disabled or stopped
15 motor vehicles otherwise permitted on the roadway.

16 **(hh)** ~~(gg)~~—"Southern county" means Muskegon, Kent, Ionia,
17 Clinton, Shiawassee, Genesee, Lapeer, or Macomb County, or a county
18 lying south of the territory constituted by these counties.

19 **(ii)** ~~(hh)~~—"Specialty court program" means a program under any
20 of the following:

21 (i) A drug treatment court, as defined in section 1060 of the
22 revised judicature act of 1961, 1961 PA 236, MCL 600.1060, in which
23 the participant is an adult.

24 (ii) A DWI/sobriety court, as defined in section 1084 of the
25 revised judicature act of 1961, 1961 PA 236, MCL 600.1084.

26 (iii) A hybrid of the programs under subparagraphs (i) and (ii).

27 (iv) A mental health court as defined in section 1090 of the
28 revised judicature act of 1961, 1961 PA 236, MCL 600.1090.

29 (v) A veterans treatment court, as defined in section 1200 of

1 the revised judicature act of 1961, 1961 PA 236, MCL 600.1200.

2 (jj) ~~(ii)~~ "Street" means a city or village major street or
3 city or village local street as described in section 9 of 1951 PA
4 51, MCL 247.659, or a segment thereof.

5 (kk) "THC" means that term as defined in section 3 of the
6 Michigan regulation and taxation of marihuana act, 2018 IL 1,
7 333.27953.

8 (ll) ~~(jj)~~ "Traffic lane" means a clearly marked lane on a
9 roadway.

10 (mm) ~~(kk)~~ "Unmaintained portion" means the portion of a
11 street, county road, or highway that is not the maintained portion.

12 (nn) ~~(ll)~~ "Visual supervision" means the direct observation of
13 the operator with the unaided or normally corrected eye by an
14 observer who is able to come to the immediate aid of the operator.

15 Sec. 81134. (1) A person shall not operate an ORV if any of
16 the following apply:

17 (a) The person is under the influence of alcoholic liquor or a
18 controlled substance, as defined by section 7104 of the public
19 health code, 1978 PA 368, MCL 333.7104, or a combination of
20 alcoholic liquor and a controlled substance.

21 (b) The person has an alcohol content of 0.08 grams or more
22 per 100 milliliters of blood, per 210 liters of breath, or per 67
23 milliliters of urine.

24 (c) The person has in his or her body any amount of a
25 controlled substance listed in schedule 1 under section 7212 of the
26 public health code, 1978 PA 368, MCL 333.7212, or a rule
27 promulgated under that section, or of a controlled substance
28 described in section 7214(a) (iv) of the public health code, 1978 PA
29 368, MCL 333.7214.

1 (2) The owner or person in charge or in control of an ORV
2 shall not authorize or knowingly permit the ORV to be operated by a
3 person if any of the following apply:

4 (a) The person is under the influence of alcoholic liquor or a
5 controlled substance or a combination of alcoholic liquor and a
6 controlled substance.

7 (b) The person has an alcohol content of 0.08 grams or more
8 per 100 milliliters of blood, per 210 liters of breath, or per 67
9 milliliters of urine.

10 (c) The person's ability to operate an ORV is visibly impaired
11 due to the consumption of an alcoholic liquor, **marihuana, or** a
12 controlled substance, ~~or a-of any combination of an alcoholic~~
13 ~~liquor and a controlled substance.~~**thereof.**

14 (3) A person shall not operate an ORV if, due to the
15 consumption of alcoholic liquor, **marihuana, or** a controlled
16 substance, as defined by section 7104 of the public health code,
17 1978 PA 368, MCL 333.7104, ~~or a-of any combination of alcoholic~~
18 ~~liquor and a controlled substance,~~**thereof,** the person's ability to
19 operate an ORV is visibly impaired. If a person is charged with
20 violating subsection (1), a finding of guilty is permissible under
21 this subsection.

22 (4) A person who operates an ORV in violation of subsection
23 (1) or (3) and by the operation of that ORV causes the death of
24 another person is guilty of a felony punishable by imprisonment for
25 not more than 15 years or a fine of not less than \$2,500.00 or more
26 than \$10,000.00, or both.

27 (5) A person who operates an ORV ~~within this state in~~
28 violation of subsection (1) or (3) and by the operation of that ORV
29 causes a serious impairment of a body function of another person is

1 guilty of a felony punishable by imprisonment for not more than 5
2 years or a fine of not less than \$1,000.00 or more than \$5,000.00,
3 or both. As used in this subsection, "serious impairment of a body
4 function" means that term as defined in section 58c of the Michigan
5 vehicle code, 1949 PA 300, MCL 257.58c.

6 (6) A person who is less than 21 years of age, whether
7 licensed or not, shall not operate an ORV if the person has any
8 bodily alcohol content. As used in this subsection, "any bodily
9 alcohol content" means either of the following:

10 (a) An alcohol content of 0.02 grams or more but less than
11 0.08 grams per 100 milliliters of blood, per 210 liters of breath,
12 or per 67 milliliters of urine, or, beginning October 1, 2018, an
13 alcohol content of 0.02 grams or more but less than 0.10 grams per
14 100 milliliters of blood, per 210 liters of breath, or per 67
15 milliliters of urine.

16 (b) Any presence of alcohol within a person's body resulting
17 from the consumption of alcoholic liquor, other than consumption of
18 alcoholic liquor as a part of a generally recognized religious
19 service or ceremony.

20 (7) A person shall not operate an ORV in violation of
21 subsection (1), (3), (4), (5), or (6) while another person who is
22 less than 16 years of age is occupying the ORV.

23 (8) If a person is convicted of violating subsection (1)(a) or
24 (b), all of the following apply:

25 (a) Except as otherwise provided in subdivisions (b) and (c),
26 the person is guilty of a misdemeanor punishable by 1 or more of
27 the following:

28 (i) Community service for not more than 360 hours.

29 (ii) Imprisonment for not more than 93 days.

1 (iii) A fine of not less than \$100.00 or more than \$500.00.

2 (b) If the violation occurs within 7 years of a prior
3 conviction, the person shall be sentenced to pay a fine of not less
4 than \$200.00 or more than \$1,000.00 and to 1 or more of the
5 following:

6 (i) Imprisonment for not less than 5 days or more than 1 year.

7 (ii) Community service for not less than 30 days or more than
8 90 days.

9 (c) If the violation occurs after 2 or more prior convictions,
10 regardless of the number of years that have elapsed since any prior
11 conviction, the person is guilty of a felony and shall be sentenced
12 to pay a fine of not less than \$500.00 or more than \$5,000.00 and
13 to either of the following:

14 (i) Imprisonment under the jurisdiction of the department of
15 corrections for not less than 1 year or more than 5 years.

16 (ii) Probation with imprisonment in the county jail for not
17 less than 30 days or more than 1 year and community service for not
18 less than 60 days or more than 180 days. Not less than 48 hours of
19 the imprisonment imposed under this subparagraph shall be served
20 consecutively.

21 (d) A term of imprisonment imposed under subdivision (b) or
22 (c) shall not be suspended unless the defendant agrees to
23 participate in a specialty court program and successfully completes
24 the program.

25 (9) A person who is convicted of violating subsection (2) is
26 guilty of a misdemeanor punishable by imprisonment for not more
27 than 93 days or a fine of not less than \$100.00 or more than
28 \$500.00, or both.

29 (10) If a person is convicted of violating subsection (3), all

1 of the following apply:

2 (a) Except as otherwise provided in subdivisions (b) and (c),
3 the person is guilty of a misdemeanor punishable by 1 or more of
4 the following:

5 (i) Community service for not more than 45 days.

6 (ii) Imprisonment for not more than 93 days.

7 (iii) A fine of not more than \$300.00.

8 (b) If the violation occurs within 7 years of 1 prior
9 conviction, the person shall be sentenced to a fine of not less
10 than \$200.00 or more than \$1,000.00, and either of the following:

11 (i) Community service for not less than 10 days or more than 90
12 days, and may be sentenced to imprisonment for not more than 1
13 year.

14 (ii) Imprisonment for not more than 1 year, and may be
15 sentenced to community service for not more than 90 days.

16 (c) If the violation occurs after 2 or more prior convictions
17 regardless of the number of years that have elapsed since any prior
18 conviction, the person shall be sentenced to a fine of not less
19 than \$200.00 or more than \$1,000.00 and either of the following:

20 (i) Community service for a period of not less than 10 days or
21 more than 90 days, and may be sentenced to imprisonment for not
22 more than 1 year.

23 (ii) Imprisonment for not more than 1 year, and may be
24 sentenced to community service for not more than 90 days.

25 (11) If a person is convicted of violating subsection (6), all
26 of the following apply:

27 (a) Except as otherwise provided in subdivision (b), the
28 person is guilty of a misdemeanor punishable by 1 or both of the
29 following:

1 (i) Community service for not more than 360 hours.

2 (ii) A fine of not more than \$250.00.

3 (b) If the violation occurs within 7 years of 1 or more prior
4 convictions, the person may be sentenced to 1 or more of the
5 following:

6 (i) Community service for not more than 60 days.

7 (ii) A fine of not more than \$500.00.

8 (iii) Imprisonment for not more than 93 days.

9 (12) A person who violates subsection (7) is guilty of a crime
10 as follows:

11 (a) A person who operates an ORV in violation of subsection
12 (1), (3), (4), or (5) while another person who is less than 16
13 years of age is occupying the ORV is guilty of a crime as follows:

14 (i) Except as provided in subdivision (b), a person who
15 violates this subdivision is guilty of a misdemeanor and shall be
16 sentenced to pay a fine of not less than \$200.00 or more than
17 \$1,000.00 and to 1 or more of the following:

18 (A) Imprisonment for not less than 5 days or more than 1 year.
19 Not less than 48 hours of this term of imprisonment shall be served
20 consecutively. This term of imprisonment shall not be suspended
21 unless the defendant agrees to participate in a specialty court
22 program and successfully completes the program.

23 (B) Community service for not less than 30 days or more than
24 90 days.

25 (ii) If the violation occurs within 7 years of a prior
26 conviction or after 2 or more prior convictions, regardless of the
27 number of years that have elapsed since any prior conviction, a
28 person who violates this subdivision is guilty of a felony and
29 shall be sentenced to pay a fine of not less than \$500.00 or more

1 than \$5,000.00 and to either of the following:

2 (A) Imprisonment under the jurisdiction of the department of
3 corrections for not less than 1 year or more than 5 years.

4 (B) Probation with imprisonment in the county jail for not
5 less than 30 days or more than 1 year and community service for not
6 less than 60 days or more than 180 days. Not less than 48 hours of
7 this term of imprisonment shall be served consecutively. This term
8 of imprisonment shall not be suspended unless the defendant agrees
9 to participate in a specialty court program and successfully
10 completes the program.

11 (b) A person who operates an ORV in violation of subsection
12 (6) while another person who is less than 16 years of age is
13 occupying the ORV is guilty of a misdemeanor punishable as follows:

14 (i) Except as provided in subparagraph (ii), a person who
15 violates this subdivision may be sentenced to 1 or more of the
16 following:

17 (A) Community service for not more than 60 days.

18 (B) A fine of not more than \$500.00.

19 (C) Imprisonment for not more than 93 days.

20 (ii) If the violation occurs within 7 years of a prior
21 conviction or after 2 or more prior convictions, regardless of the
22 number of years that have elapsed since any prior conviction, a
23 person who violates this subdivision shall be sentenced to pay a
24 fine of not less than \$200.00 or more than \$1,000.00 and to 1 or
25 more of the following:

26 (A) Imprisonment for not less than 5 days or more than 1 year.
27 This term of imprisonment shall not be suspended unless the
28 defendant agrees to participate in a specialty court program and
29 successfully completes the program.

1 (B) Community service for not less than 30 days or more than
2 90 days.

3 (13) For a conviction under subsection (4) or (5), the court
4 shall order, without an expiration date, that the person not
5 operate an ORV.

6 (14) As part of the sentence for a violation of subsection (1)
7 or a local ordinance substantially corresponding to subsection (1),
8 the court shall do the following:

9 (a) If the court finds that the person has no prior
10 convictions within 7 years, ~~the court shall order~~ that the person
11 not operate an ORV for a period of not less than 6 months or more
12 than 2 years.

13 (b) If the court finds that the person has 1 or more prior
14 convictions within 7 years, ~~the court shall order~~ that the person
15 not operate an ORV for a period of not less than 1 year or more
16 than 2 years.

17 (c) If the court finds that the person has 2 or more prior
18 convictions within a period of 10 years, ~~the court shall order~~ that
19 the person not operate an ORV for a period of not less than 1 year
20 or more than 2 years.

21 (15) As part of the sentence for a violation of subsection (3)
22 or a local ordinance substantially corresponding to subsection (3),
23 the court shall do the following:

24 (a) If the court finds that the person has no prior
25 convictions within 7 years, ~~the court shall order~~ that the person
26 not operate an ORV for a period of not less than 90 days or more
27 than 1 year.

28 (b) If the court finds that the person has 1 or more prior
29 convictions within 7 years, ~~the court shall order~~ that the person

1 not operate an ORV for a period of not less than 6 months or more
2 than 18 months.

3 (c) If the court finds that the person has 2 or more prior
4 convictions within a period of 10 years, ~~the court shall order that~~
5 the person not operate an ORV for a period of not less than 1 year
6 or more than 2 years.

7 (16) In addition to imposing the sanctions prescribed under
8 this section, the court may order the person to pay the costs of
9 the prosecution under chapter IX of the code of criminal procedure,
10 1927 PA 175, MCL 769.1 to 769.36.

11 (17) A person sentenced to perform community service under
12 this section shall not receive compensation and shall reimburse the
13 state or appropriate local unit of government for the cost of
14 supervision incurred by the state or local unit of government as a
15 result of the person's activities in that service.

16 (18) Before imposing sentence for a violation of subsection
17 (1), (3), (6), or (7) or a local ordinance substantially
18 corresponding to subsection (1), (3), or (6), the court shall order
19 the person to undergo screening and assessment by a person or
20 agency designated by the office of substance abuse services, to
21 determine whether the person is likely to benefit from
22 rehabilitative services, including alcohol or drug education and
23 alcohol or drug treatment programs. As part of the sentence, the
24 court may order the person to participate in and successfully
25 complete 1 or more appropriate rehabilitative programs. The person
26 shall pay for the costs of the screening, assessment, and
27 rehabilitative services.

28 (19) Before accepting a plea of guilty under this section, the
29 court shall advise the accused of the statutory consequences

1 possible as the result of a plea of guilty in respect to suspension
2 of the person's right to operate an ORV and the penalty imposed for
3 violation of this section.

4 (20) Each municipal judge and each clerk of a court of record
5 shall keep a full record of every case in which a person is charged
6 with a violation of this section. The municipal judge or clerk of
7 the court of record shall prepare and immediately forward to the
8 secretary of state an abstract of the court of record for each case
9 charging a violation of this section.

10 Sec. 81136. (1) In a criminal prosecution for violating
11 section 81134 or a local ordinance substantially corresponding to
12 section 81134(1), (3), or (6) or in a criminal prosecution for
13 negligent homicide, manslaughter, or murder resulting from the
14 operation of an ORV while the operator is alleged to have been
15 impaired by or under the influence of alcoholic liquor, **marihuana**,
16 or a controlled substance or ~~a any combination of alcoholic liquor~~
17 ~~and a controlled substance, thereof~~, or to have had a blood alcohol
18 content of 0.08 grams or more per 100 milliliters of blood, per 210
19 liters of breath, or per 67 milliliters of urine, or to have had in
20 his or her body any amount of a controlled substance listed in
21 schedule 1 under section 7212 of the public health code, 1978 PA
22 368, MCL 333.7212, or a rule promulgated under that section, or of
23 a controlled substance described in section 7214(a) (iv) of the
24 public health code, 1978 PA 368, MCL 333.7214, the amount of
25 alcohol, **THC**, or controlled substance in the operator's blood at
26 the time alleged as shown by chemical analysis of the operator's
27 blood, urine, or breath is admissible into evidence.

28 (2) If a chemical test of an operator's blood, urine, or
29 breath is given, the results of the test shall be made available to

1 the person charged with an offense enumerated in subsection (1) or
2 the person's attorney upon written request to the prosecution, with
3 a copy of the request filed with the court. The prosecution shall
4 furnish the report at least 2 days before the day of the trial and
5 the results shall be offered as evidence by the prosecution in a
6 criminal proceeding. Failure to fully comply with the request shall
7 bar the admission of the results into evidence by the prosecution.

8 (3) A sample or specimen of urine or breath shall be taken and
9 collected in a reasonable manner. Only a licensed physician, or a
10 licensed nurse or medical technician under the direction of a
11 licensed physician and qualified to withdraw blood acting in a
12 medical environment, at the request of a peace officer, may
13 withdraw blood for the purpose of determining the alcoholic content
14 **or THC content** of the blood under this part. Liability for a crime
15 or civil damages predicated on the act of withdrawing blood and
16 related procedures shall not attach to a qualified person who
17 withdraws blood or assists in the withdrawal in accordance with
18 this part unless the withdrawal is performed in a negligent manner.

19 (4) A person arrested for a crime enumerated in subsection (1)
20 who takes a chemical test administered at the request of a peace
21 officer as provided in this part shall be given a reasonable
22 opportunity to have a person of his or her own choosing administer
23 1 of the chemical tests described in this section within a
24 reasonable time after his or her detention, and the results of the
25 test ~~shall be~~ **are** admissible and shall be considered with other
26 competent evidence in determining the defendant's innocence or
27 guilt of a crime enumerated in subsection (1). If the person
28 arrested is administered a chemical test by a person of his or her
29 own choosing, the person arrested ~~shall be~~ **is** responsible for

1 obtaining a chemical analysis of the test sample. The person shall
2 be informed that he or she has the right to demand that a person of
3 his or her choosing administer 1 of the chemical tests described in
4 this section, that the results of the test ~~shall be~~ **are** admissible
5 and shall be considered with other competent evidence in
6 determining the innocence or guilt of the defendant, and that the
7 person arrested ~~shall be~~ **is** responsible for obtaining a chemical
8 analysis of the test sample.

9 (5) A person arrested shall be advised that if the person
10 refuses the request of a peace officer to take a test described in
11 this section, a test shall not be given without a court order. The
12 person arrested shall also be advised that the person's refusal of
13 the request of a peace officer to take a test described in this
14 section shall result in the suspension of the person's right to
15 operate an ORV.

16 (6) This section ~~shall not be construed as limiting~~ **does not**
17 **limit** the introduction of any other competent evidence bearing upon
18 the question of whether or not the defendant was impaired by or
19 under the influence of alcoholic liquor, **marihuana**, ~~or a~~ controlled
20 substance, or ~~a~~ **any** combination ~~of alcoholic liquor and a~~
21 ~~controlled substance,~~ **thereof**, or whether the person had a blood
22 alcohol content of 0.08 grams or more per 100 milliliters of blood,
23 per 210 liters of breath, or per 67 milliliters of urine or had in
24 his or her body any amount of a controlled substance listed in
25 schedule 1 under section 7212 of the public health code, 1978 PA
26 368, MCL 333.7212, or a rule promulgated under that section, or of
27 a controlled substance described in section 7214(a) (iv) of the
28 public health code, 1978 PA 368, MCL 333.7214.

29 (7) If a jury instruction regarding a defendant's refusal to

1 submit to a chemical test under this section is requested by the
2 prosecution or the defendant, the jury instruction shall be given
3 as follows:

4 "Evidence was admitted in this case which, if believed by the
5 jury, could prove that the defendant had exercised his or her right
6 to refuse a chemical test. You are instructed that such a refusal
7 is within the statutory rights of the defendant and is not evidence
8 of the defendant's guilt. You are not to consider such a refusal in
9 determining the guilt or innocence of the defendant."

10 (8) If after an accident the operator of an ORV involved in
11 the accident is transported to a medical facility and a sample of
12 the operator's blood is withdrawn at that time for the purpose of
13 medical treatment, the results of a chemical analysis of that
14 sample ~~shall be~~**are** admissible in a criminal prosecution for a
15 crime described in subsection (1) to show the amount of alcohol, or
16 **the amount of THC, the** presence of a controlled substance, or ~~both,~~
17 **any combination thereof,** in the person's blood at the time alleged,
18 regardless of whether the person had been offered or had refused a
19 chemical test. The medical facility or person performing the
20 chemical analysis shall disclose the results of the analysis to a
21 prosecuting attorney who requests the results for use in a criminal
22 prosecution as provided in this subsection. A medical facility or
23 person disclosing information in compliance with this subsection
24 ~~shall not be~~**is not** civilly or criminally liable for making the
25 disclosure.

26 (9) If after an accident the operator of an ORV involved in
27 the accident is deceased, a sample of the decedent's blood shall be
28 withdrawn in a manner directed by the medical examiner for the
29 purpose of determining ~~blood alcohol content or~~**the amount of**

1 **alcohol, the amount or presence of THC, or the** presence of a
2 controlled substance, or ~~both—any combination thereof, in the~~
3 **decedent's blood.** The medical examiner shall give the results of
4 the chemical analysis to the law enforcement agency investigating
5 the accident, and that agency shall forward the results to the
6 department of state police.

7 Sec. 81137. (1) Except as provided in subsection (2), a person
8 who operates an ORV is considered to have given consent to chemical
9 tests of his or her blood, breath, or urine for the purpose of
10 determining the amount of alcohol, ~~or—the amount or presence of~~
11 **THC, the** presence of a controlled substance, or ~~both—any~~
12 **combination thereof,** in his or her blood, and may be requested by a
13 peace officer to submit to chemical tests of his or her blood,
14 breath, or urine for the purpose of determining the amount of
15 alcohol, ~~or—the amount or presence of THC, the~~ presence of a
16 controlled substance, or ~~both—any combination thereof,~~ in his or
17 her blood if:

18 (a) The person is arrested for a violation of section
19 81134(1), (3), (4), (5), (6), or (7) or a local ordinance
20 substantially corresponding to section 81134(1), (3), or (6).

21 (b) The person is arrested for negligent homicide,
22 manslaughter, or murder resulting from the operation of an ORV, and
23 the peace officer has reasonable grounds to believe that the person
24 was operating the ORV in violation of section 81134.

25 (2) A person who is afflicted with hemophilia, diabetes, or a
26 condition requiring the use of an anticoagulant under the direction
27 of a physician shall not be considered to have given consent to the
28 withdrawal of blood.

29 Sec. 81144. If a peace officer has reasonable cause to believe

1 that a person was, at the time of an accident, the operator of an
2 ORV involved in the accident and was operating the ORV while under
3 the influence of an alcoholic liquor, a controlled substance as
4 defined in section 7104 of the public health code, 1978 PA 368, MCL
5 333.7104, or a combination of alcoholic liquor and a controlled
6 substance, or was operating the ORV while his or her ability to
7 operate an ORV was impaired due to the consumption of alcoholic
8 liquor, **marihuana, or** a controlled substance, or ~~a-of any~~
9 ~~combination of alcoholic liquor and a controlled substance,~~
10 **thereof**, the peace officer may arrest the alleged operator of the
11 ORV without a warrant.

12 Sec. 82101. As used in this part:

13 (a) "Alcoholic liquor" means that term as defined in section
14 1d of the Michigan vehicle code, 1949 PA 300, MCL 257.1d.

15 (b) "Auction" means the sale or offer for sale by bidding of
16 real or personal property at a public or private location.

17 (c) "Auctioneer" means a person that is engaged in the
18 business of conducting auctions or that offers to conduct an
19 auction for compensation.

20 (d) "Conviction" means a final conviction, the payment of a
21 fine, a plea of guilty or nolo contendere if accepted by the court,
22 or a finding of guilt or probate court disposition on a violation
23 of this part, regardless of whether the penalty is rebated or
24 suspended.

25 (e) "Dealer" means any person engaged in the sale, lease, or
26 rental of snowmobiles as a regular business, other than an
27 auctioneer.

28 (f) "Former section 15a" means section 15a of former 1968 PA
29 74, as constituted before May 1, 1994.

1 (g) "Highly restricted personal information" means an
 2 individual's photograph or image, Social Security number, digitized
 3 signature, and medical and disability information.

4 (h) "Highway or street" means the entire width between the
 5 boundary lines of every way publicly maintained if any part of it
 6 is open to public use for vehicular travel.

7 (i) "Historic snowmobile" means a snowmobile that is over 25
 8 years old and that is owned solely as a collector's item and for
 9 occasional use and for participation in club activities,
 10 exhibitions, tours, parades, and similar uses, including mechanical
 11 testing.

12 (j) "In-kind contributions" means services and goods as
 13 approved by the department that are provided by a grant recipient
 14 toward completion of a department-approved local snowmobile program
 15 under section 82107.

16 (k) "Law of another state" means a law or ordinance enacted by
 17 any of the following:

18 (i) Another state.

19 (ii) A local unit of government in another state.

20 (iii) Canada or a province or territory of Canada.

21 (iv) A local unit of government in a province or territory of
 22 Canada.

23 **(l) "Marihuana" means that term as defined in section 3 of the**
 24 **Michigan regulation and taxation of marihuana act, 2018 IL 1,**
 25 **333.27953.**

26 (m) ~~(l)~~ "Operate" means to ride in or on and be in actual
 27 physical control of the operation of a snowmobile.

28 (n) ~~(m)~~ "Operator" means any individual who operates a
 29 snowmobile.

1 **(o)** ~~(n)~~ "Owner" means any of the following:

2 (i) A person that holds the legal title to a snowmobile.

3 (ii) A vendee or lessee of a snowmobile that is the subject of
4 an agreement for conditional sale or lease with the right of
5 purchase upon performance of the conditions stated in the agreement
6 and with an immediate right of possession vested in the conditional
7 vendee or lessee.

8 (iii) A person renting a snowmobile or having the exclusive use
9 of a snowmobile for more than 30 days.

10 **(p)** ~~(e)~~ "Peace officer" means any of the following:

11 (i) A sheriff.

12 (ii) A sheriff's deputy.

13 (iii) A deputy who is authorized by a sheriff to enforce this
14 part and who has satisfactorily completed at least 40 hours of law
15 enforcement training, including training specific to this part.

16 (iv) A village or township marshal.

17 (v) An officer of the police department of any municipality.

18 (vi) An officer of the Michigan state police.

19 (vii) The director and conservation officers employed by the
20 department.

21 (viii) A law enforcement officer who is licensed or certified
22 under the Michigan commission on law enforcement standards act,
23 1965 PA 203, MCL 28.601 to 28.615, and is policing within his or
24 her jurisdiction.

25 **(q)** ~~(p)~~ "Personal information" means information that
26 identifies an individual, including an individual's driver
27 identification number, name, address not including zip code, and
28 telephone number, but does not include information on snowmobile
29 operation or equipment-related violations or civil infractions,

1 operator or snowmobile registration status, accidents, or other
2 behaviorally-related information.

3 **(r)** ~~(q)~~—"Prior conviction" means a conviction for any of the
4 following, whether under a law of this state, a local ordinance
5 substantially corresponding to a law of this state, a law of the
6 United States substantially corresponding to a law of this state,
7 or a law of another state substantially corresponding to a law of
8 this state:

9 (i) A violation or an attempted violation of section 82127(1),
10 (3), (4), (5), (6), or (7), except that only 1 violation or
11 attempted violation of section 82127(6), a local ordinance
12 substantially corresponding to section 82127(6), or a law of
13 another state substantially corresponding to section 82127(6), or a
14 law of the United States substantially corresponding to section
15 82127(6) may be used as a prior conviction other than for
16 enhancement purposes as provided in section 82129a(1)(b).

17 (ii) Negligent homicide, manslaughter, or murder resulting from
18 the operation of a snowmobile or an attempt to commit any of those
19 crimes.

20 (iii) Former section 15a(1), (3), (4), or (5) of 1968 PA 74.

21 (iv) Former section 15a.

22 **(s)** ~~(r)~~—"Probate court or family division disposition" means
23 the entry of a probate court order of disposition or family
24 division order of disposition for a child found to be within the
25 provisions of chapter XIIA of the probate code of 1939, 1939 PA
26 288, MCL 712A.1 to 712A.32.

27 **(t)** ~~(s)~~—"Prosecuting attorney", unless the context requires
28 otherwise, means the attorney general, the prosecuting attorney of
29 a county, or the attorney representing a local unit of government.

1 **(u)** ~~(t)~~—"Recreational snowmobile trail improvement subaccount"
2 means the recreational snowmobile trail improvement subaccount of
3 the snowmobile account created in section 82110.

4 **(v)** ~~(u)~~—"Right-of-way" means that portion of a highway or
5 street not including the roadway and any shoulder.

6 **(w)** ~~(v)~~—"Roadway" means that portion of a highway or street
7 improved, designated, or ordinarily used for vehicular travel. If a
8 highway or street includes 2 or more separate roadways, the term
9 roadway refers to any roadway separately, but not to all of the
10 roadways collectively.

11 **(x)** ~~(w)~~—"Shoulder" means that portion of a highway or street
12 on either side of the roadway that is normally snowplowed for the
13 safety and convenience of vehicular traffic.

14 **(y)** ~~(x)~~—"Snowmobile" means any motor-driven vehicle that is
15 designed for travel primarily on snow or ice and that utilizes
16 sled-type runners or skis, an endless belt tread, or any
17 combination of these or other similar means of contact with the
18 surface upon which it is operated, but is not a vehicle that must
19 be registered under the Michigan vehicle code, 1949 PA 300, MCL
20 257.1 to 257.923.

21 **(z)** ~~(y)~~—"Snowmobile account" means the snowmobile account of
22 the Michigan conservation and recreation legacy fund provided for
23 in section 2025.

24 **(aa)** ~~(z)~~—"Snowmobile registration fee subaccount" means the
25 snowmobile registration fee subaccount of the snowmobile account
26 created in section 82111.

27 **(bb)** ~~(aa)~~—"Specialty court program" means a program under any
28 of the following:

29 (i) A drug treatment court, as defined in section 1060 of the

1 revised judicature act of 1961, 1961 PA 236, MCL 600.1060, in which
2 the participant is an adult.

3 (ii) A DWI/sobriety court, as defined in section 1084 of the
4 revised judicature act of 1961, 1961 PA 236, MCL 600.1084.

5 (iii) A hybrid of the programs under subparagraphs (i) and (ii).

6 (iv) A mental health court as defined in section 1090 of the
7 revised judicature act of 1961, 1961 PA 236, MCL 600.1090.

8 (v) A veterans treatment court, as defined in section 1200 of
9 the revised judicature act of 1961, 1961 PA 236, MCL 600.1200.

10 (cc) **"THC" means that term as defined in section 3 of the**
11 **Michigan regulation and taxation of marihuana act, 2018 IL 1,**
12 **333.27953.**

13 (dd) ~~(bb)~~ "Zone 1" means all of the Upper Peninsula.

14 (ee) ~~(cc)~~ "Zone 2" means all of that part of the Lower
15 Peninsula north of a line beginning at and drawn from a point on
16 the Michigan-Wisconsin boundary line due west of the westerly
17 terminus of River Road in Muskegon County; thence due east to the
18 westerly terminus of River Road; thence north and east along the
19 center line of the River Road to its intersection with highway M-
20 120; thence northeasterly and easterly along the center line of
21 highway M-120 to the junction of highway M-20; thence easterly
22 along the center line of M-20 to its junction with US-10 at the
23 Midland-Bay County line; thence easterly along the center line of
24 the "business route" of highway US-10 to the intersection of
25 Garfield Road in Bay County; thence north along the center line of
26 Garfield Road to the intersection of the Pinconning Road; thence
27 east along the center line of Pinconning Road to the intersection
28 of the Seven Mile Road; thence north along the center of the Seven
29 Mile Road to the Bay-Arenac County line; thence north along the

1 center line of the Lincoln School Road (county road 25) in Arenac
 2 County to the intersection of highway M-61; thence east along the
 3 center line of highway M-61 to the junction of highway US-23;
 4 thence northerly and easterly along the center line of highway US-
 5 23 to the center line of the Au Gres River; thence southerly along
 6 the center line of the river to its junction with Saginaw Bay of
 7 Lake Huron; thence north 78° east to the international boundary
 8 line between the United States and the Dominion of Canada.

9 (ff) ~~(dd)~~ "Zone 3" means all of that part of the Lower
 10 Peninsula south of the line described in subdivision (bb).

11 Sec. 82127. (1) A person shall not operate a snowmobile ~~in~~
 12 ~~this state~~ if any of the following apply:

13 (a) The person is under the influence of alcoholic liquor or a
 14 controlled substance, or both.

15 (b) The person has a blood alcohol content of 0.08 grams or
 16 more per 100 milliliters of blood, per 210 liters of breath, or per
 17 67 milliliters of urine.

18 (c) The person has in his or her body any amount of a
 19 controlled substance listed in schedule 1 under section 7212 of the
 20 public health code, 1978 PA 368, MCL 333.7212, or a rule
 21 promulgated under that section, or of a controlled substance
 22 described in section 7214(a) (iv) of the public health code, 1978 PA
 23 368, MCL 333.7214.

24 (2) The owner of a snowmobile or a person in charge or in
 25 control of a snowmobile shall not authorize or knowingly permit the
 26 snowmobile to be driven or operated by a person if any of the
 27 following apply:

28 (a) The person is under the influence of alcoholic liquor or a
 29 controlled substance, or both.

1 (b) The person has an alcohol content of 0.08 grams or more
2 per 100 milliliters of blood, per 210 liters of breath, or per 67
3 milliliters of urine.

4 (c) The person's ability to operate a snowmobile is visibly
5 impaired due to the consumption of an alcoholic liquor, **marihuana**,
6 **or** a controlled substance, or ~~a of any combination of an alcoholic~~
7 ~~liquor and a controlled substance thereof.~~

8 (3) A person shall not operate a snowmobile when, due to the
9 consumption of an alcoholic liquor, ~~or marihuana~~, **or** a controlled
10 substance, or ~~both~~, **any combination thereof**, the person's ability
11 to operate the snowmobile is visibly impaired. If a person is
12 charged with violating subsection (1), a finding of guilty under
13 this subsection may be rendered.

14 (4) A person who operates a snowmobile in violation of
15 subsection (1) or (3) and by the operation of that snowmobile
16 causes the death of another person is guilty of a felony punishable
17 by imprisonment for not more than 15 years or a fine of not less
18 than \$2,500.00 or more than \$10,000.00, or both.

19 (5) A person who operates a snowmobile in violation of
20 subsection (1) or (3) and by the operation of that snowmobile
21 causes a serious impairment of a body function of another person is
22 guilty of a felony punishable by imprisonment for not more than 5
23 years or a fine of not less than \$1,000.00 or more than \$5,000.00,
24 or both. As used in this subsection, "serious impairment of a body
25 function" means that term as defined in section 58c of the Michigan
26 vehicle code, 1949 PA 300, MCL 257.58c.

27 (6) A person who is less than 21 years of age, whether
28 licensed or not, shall not operate a snowmobile if the person has
29 any bodily alcohol content. As used in this subsection, "any bodily

1 alcohol content" means either of the following:

2 (a) An alcohol content of 0.02 grams or more but less than
3 0.08 grams per 100 milliliters of blood, per 210 liters of breath,
4 or per 67 milliliters of urine, or, beginning October 1, 2018, an
5 alcohol content of 0.02 grams or more but less than 0.10 grams per
6 100 milliliters of blood, per 210 liters of breath, or per 67
7 milliliters of urine.

8 (b) Any presence of alcohol within a person's body resulting
9 from the consumption of alcoholic liquor, other than consumption of
10 alcoholic liquor as a part of a generally recognized religious
11 service or ceremony.

12 (7) A person is subject to the following requirements:

13 (a) He or she shall not operate a snowmobile in violation of
14 subsection (1), (3), (4), or (5) while another person who is less
15 than 16 years of age is occupying the snowmobile.

16 (b) He or she shall not operate a snowmobile in violation of
17 subsection (6) while another person who is less than 16 years of
18 age is occupying the snowmobile.

19 Sec. 82137. (1) The following apply with respect to a chemical
20 test and analysis of a person's blood, urine, or breath, other than
21 a preliminary chemical breath analysis:

22 (a) The amount of alcohol, ~~or the amount or presence of THC,~~
23 **the** presence of a controlled substance, or ~~both,~~ **any combination**
24 **thereof** in an operator's blood at the time alleged as shown by
25 chemical analysis of the person's blood, urine, or breath is
26 admissible into evidence in any civil or criminal proceeding.

27 (b) A person arrested for a crime described in section
28 82143(1) shall be advised of all of the following:

29 (i) That if the person takes a chemical test of his or her

1 blood, urine, or breath administered at the request of a peace
 2 officer, the person has the right to demand that someone of the
 3 person's own choosing administer 1 of the chemical tests; that the
 4 results of the test are admissible in a judicial proceeding as
 5 provided under this part and shall be considered with other
 6 competent evidence in determining the innocence or guilt of the
 7 defendant; and that the person is responsible for obtaining a
 8 chemical analysis of a test sample obtained pursuant to the
 9 person's own request.

10 (ii) That if the person refuses the request of a peace officer
 11 to take a test described in subparagraph (i), the test shall not be
 12 given without a court order, but the peace officer may seek to
 13 obtain such a court order.

14 (iii) That the person's refusal of the request of a peace
 15 officer to take a test described in subparagraph (i) will result in
 16 issuance of an order that the person not operate a snowmobile.

17 (2) A sample or specimen of urine or breath shall be taken and
 18 collected in a reasonable manner. Only a licensed physician, or a
 19 licensed nurse or medical technician under the direction of a
 20 licensed physician, qualified to withdraw blood and acting in a
 21 medical environment, may withdraw blood at the request of a peace
 22 officer for the purpose of determining the amount of alcohol, ~~or~~
 23 **the amount or presence of THC, the** presence of a controlled
 24 substance, or ~~both,~~**any combination thereof**, in a person's blood, as
 25 provided in this subsection. A qualified person who withdraws or
 26 analyzes blood, or assists in the withdrawal or analysis, in
 27 accordance with this part is not liable for a crime or civil
 28 damages predicated on the act of withdrawing or analyzing blood and
 29 related procedures unless the withdrawal or analysis is performed

1 in a negligent manner.

2 (3) A rule relating to a chemical test for alcohol, **THC**, or a
3 controlled substance promulgated under the Michigan vehicle code,
4 ~~Act No. 300 of the Public Acts of 1949, being sections 257.1 to~~
5 ~~257.923 of the Michigan Compiled Laws, 1949 PA 300, MCL 257.1 to~~
6 **257.923**, applies to a chemical test administered under this part.

7 Sec. 82138. (1) A chemical test described in section 82137
8 shall be administered at the request of a peace officer having
9 reasonable grounds to believe the person has committed a crime
10 described in section 82143(1). A person who takes a chemical test
11 administered at the request of a peace officer, as provided in
12 section 82137, shall be given a reasonable opportunity to have
13 someone of the person's own choosing administer 1 of the chemical
14 tests described in section 82137 within a reasonable time after the
15 person's detention, and the results of the test are admissible and
16 shall be considered with other competent evidence in determining
17 the innocence or guilt of the defendant. If the person charged is
18 administered a chemical test by someone of the person's own
19 choosing, the person charged is responsible for obtaining a
20 chemical analysis of the test sample.

21 (2) If, after an accident, the operator of a snowmobile
22 involved in an accident is transported to a medical facility and a
23 sample of the operator's blood is withdrawn at that time for the
24 purpose of medical treatment, the results of a chemical analysis of
25 that sample are admissible in any civil or criminal proceeding to
26 show the amount of alcohol, ~~or the amount or presence of THC, or~~
27 **the** presence of a controlled substance, or ~~both, any combination~~
28 **thereof**, in the person's blood at the time alleged, regardless of
29 whether the person had been offered or had refused a chemical test.

1 The medical facility or person performing the chemical analysis
2 shall disclose the results of the analysis to a prosecuting
3 attorney who requests the results for use in a criminal prosecution
4 as provided in this subsection. A medical facility or person
5 disclosing information in compliance with this subsection is not
6 civilly or criminally liable for making the disclosure.

7 (3) If, after an accident, the operator of a snowmobile
8 involved in an accident is deceased, a sample of the decedent's
9 blood shall be withdrawn in a manner directed by the medical
10 examiner for the purpose of determining the amount of alcohol, ~~or~~
11 **the amount or presence of THC, or** the presence of a controlled
12 substance, or ~~both, any combination thereof,~~ in the decedent's
13 blood. The medical examiner shall give the results of the chemical
14 analysis of the sample to the law enforcement agency investigating
15 the accident, and that agency shall forward the results to the
16 department of state police.

17 Sec. 82139. (1) The provisions of sections 82137 and 82138
18 relating to chemical testing do not limit the introduction of any
19 other competent evidence bearing upon the question of whether a
20 person was impaired by, or under the influence of, alcoholic
21 liquor, **marihuana**, or a controlled substance, or both, or whether
22 the person had a blood alcohol content of 0.08 grams or more per
23 100 milliliters of blood, per 210 liters of breath, or per 67
24 milliliters of urine or had in his or her body any amount of a
25 controlled substance listed in schedule 1 under section 7212 of the
26 public health code, 1978 PA 368, MCL 333.7212, or a rule
27 promulgated under that section, or of a controlled substance
28 described in section 7214(a) (iv) of the public health code, 1978 PA
29 368, MCL 333.7214.

1 (2) If a chemical test described in sections 82137 and 82138
2 is administered, the results of the test shall be made available to
3 the person charged or the person's attorney upon written request to
4 the prosecution, with a copy of the request filed with the court.
5 The prosecution shall furnish the results at least 2 days before
6 the day of the trial. The results of the test shall be offered as
7 evidence by the prosecution in that trial. Failure to fully comply
8 with the request bars the admission of the results into evidence by
9 the prosecution.

10 Sec. 82143. (1) A person who operates a snowmobile is
11 considered to have given consent to chemical tests of his or her
12 blood, breath, or urine for the purpose of determining the amount
13 of alcohol, ~~or the amount or presence of THC, or the presence of a~~
14 ~~controlled substance, or both, any combination thereof,~~ in his or
15 her blood in all of the following circumstances:

16 (a) The person is arrested for a violation of section
17 82127(1), (3), (4), (5), (6), or (7) or a local ordinance
18 substantially corresponding to section 82127(1), (3), or (6).

19 (b) The person is arrested for negligent homicide,
20 manslaughter, or murder resulting from the operation of a
21 snowmobile, and the peace officer had reasonable grounds to believe
22 that the person was operating the snowmobile in violation of
23 section 82127.

24 (2) A person who is afflicted with hemophilia, diabetes, or a
25 condition requiring the use of an anticoagulant under the direction
26 of a physician shall not be considered to have given consent to the
27 withdrawal of blood.

28 (3) A chemical test described in subsection (1) shall be
29 administered as provided in sections 82137 and 82138.

1 Enacting section 1. This amendatory act does not take effect
2 unless all of the following bills of the 102nd Legislature are
3 enacted into law:

4 (a) Senate Bill No. _____ or House Bill No. 6241 (request no.
5 04241'23).

6 (b) Senate Bill No. _____ or House Bill No. 6244 (request no.
7 06718'23).