

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4284**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 81131 (MCL 324.81131), as amended by 2011 PA
107.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 81131. (1) A municipality may pass an ordinance allowing
2 a permanently disabled person to operate an ORV in that
3 municipality.
4 (2) Subject to subsection (4), the county board of
5 commissioners of an eligible county may adopt an ordinance
6 authorizing the operation of ORVs on ~~the maintained portion of~~ 1 or
7 more **COUNTY** roads located within the county. Not less than 45 days
8 before a public hearing on the ordinance, the county clerk shall
9 send notice of the public hearing, by certified mail, to the county
10 road commission, **TO THE LEGISLATIVE BODY OF EACH TOWNSHIP AND**

1 **MUNICIPALITY LOCATED WITHIN THE COUNTY, TO THE STATE TRANSPORTATION**
 2 **DEPARTMENT IF THE ROAD INTERSECTS A HIGHWAY, and, if state**
 3 forestland is located within the county, to the department.

4 (3) Subject to subsection (4), the **LEGISLATIVE BODY OF A**
 5 township ~~board of a township~~ **OR MUNICIPALITY** located in an eligible
 6 county may adopt an ordinance authorizing the operation of ORVs on
 7 ~~the maintained portion of~~ 1 or more **COUNTY** roads located within the
 8 township **OR MUNICIPALITY, RESPECTIVELY.** Not less than 28 days
 9 before a public hearing on the ordinance, the ~~township clerk~~ **OF THE**
 10 **TOWNSHIP OR MUNICIPALITY** shall send notice of the public hearing,
 11 by certified mail, to the county road commission, **TO THE COUNTY**
 12 **BOARD OF COMMISSIONERS, TO THE LEGISLATIVE BODY OF EVERY OTHER**
 13 **TOWNSHIP AND MUNICIPALITY LOCATED WITHIN THE COUNTY, TO THE STATE**
 14 **TRANSPORTATION DEPARTMENT IF THE ROAD INTERSECTS A HIGHWAY, and, if**
 15 state forestland is located within the township **OR MUNICIPALITY, to**
 16 the department. This subsection does not apply to a township **OR**
 17 **MUNICIPALITY** until 1 year after the effective date of the
 18 amendatory act that first defined eligible county so as to include
 19 the county in which that township **OR MUNICIPALITY** is located.

20 (4) The board of county road commissioners may close a **COUNTY**
 21 road to the operation of ORVs under subsection (2) or (3) to
 22 protect the environment or if the operation of ORVs under
 23 subsection (2) or (3) poses a particular and demonstrable threat to
 24 public safety. A county road commission shall not under this
 25 subsection close more than 30% of the linear miles of **COUNTY** roads
 26 located within the county to the operation of ORVs under subsection
 27 (2) or (3). The **LEGISLATIVE BODY OF A** township ~~board of a township~~

1 OR MUNICIPALITY located in an eligible county may adopt an
2 ordinance to close a COUNTY road LOCATED IN THE TOWNSHIP OR
3 MUNICIPALITY to the operation of ORVs under subsection (2). THE
4 LEGISLATIVE BODY OF A VILLAGE MAY ADOPT AN ORDINANCE TO CLOSE A
5 COUNTY ROAD LOCATED IN THE VILLAGE TO THE OPERATION OF ORVS
6 OTHERWISE AUTHORIZED UNDER SUBSECTION (3).

7 (5) The legislative body of a municipality located in an
8 eligible county may adopt an ordinance authorizing the operation of
9 ORVs on ~~the maintained portion of~~ 1 or more streets within the
10 municipality.

11 (6) THE LEGISLATIVE BODY OF A LOCAL UNIT OF GOVERNMENT MAY
12 REQUEST THE STATE TRANSPORTATION DEPARTMENT TO AUTHORIZE THE LOCAL
13 UNIT OF GOVERNMENT TO ADOPT AN ORDINANCE AUTHORIZING THE OPERATION
14 OF ORVS ON A HIGHWAY, OTHER THAN AN INTERSTATE HIGHWAY, LOCATED
15 WITHIN THE LOCAL UNIT OF GOVERNMENT. THE REQUEST SHALL DESCRIBE HOW
16 THE AUTHORIZATION WOULD MEET THE REQUIREMENTS OF SUBSECTION (7).
17 THE STATE TRANSPORTATION DEPARTMENT SHALL SOLICIT COMMENT ON THE
18 REQUEST FROM THE DEPARTMENT, ORV CLUBS, AND LOCAL UNITS OF
19 GOVERNMENT WHERE THE HIGHWAY IS LOCATED. THE STATE TRANSPORTATION
20 DEPARTMENT SHALL CONSIDER COMMENTS RECEIVED ON THE REQUEST BEFORE
21 MAKING A DECISION ON THE REQUEST. THE STATE TRANSPORTATION
22 DEPARTMENT SHALL GRANT THE REQUEST IN WHOLE OR IN PART OR DENY THE
23 REQUEST NOT MORE THAN 60 DAYS AFTER THE REQUEST IS RECEIVED. IF THE
24 STATE TRANSPORTATION DEPARTMENT GRANTS A REQUEST IN WHOLE OR IN
25 PART UNDER THIS SUBSECTION, THE LOCAL UNIT OF GOVERNMENT THAT
26 SUBMITTED THE REQUEST MAY ADOPT AN ORDINANCE AUTHORIZING THE
27 OPERATION OF ORVS ON THE HIGHWAY THAT WAS THE SUBJECT OF THE

1 REQUEST. A COUNTY MAY SUBMIT A REQUEST FOR AUTHORIZATION UNDER THIS
2 SUBSECTION ON BEHALF OF 1 OR MORE LOCAL UNITS OF GOVERNMENT LOCATED
3 WITHIN THAT COUNTY IF REQUESTED BY THOSE LOCAL UNITS OF GOVERNMENT.
4 BEFORE JANUARY 1, 2015, THE STATE TRANSPORTATION DEPARTMENT MAY
5 AUTHORIZE THE OPERATION OF ORVS ON A HIGHWAY AS PROVIDED IN THIS
6 SUBSECTION AND SUBSECTION (7) ON THE DEPARTMENT'S INITIATIVE AND
7 WITHOUT HAVING RECEIVED A REQUEST FROM A LOCAL UNIT OF GOVERNMENT.

8 (7) THE STATE TRANSPORTATION DEPARTMENT SHALL AUTHORIZE
9 OPERATION OF AN ORV UNDER SUBSECTION (6) ONLY ON A HIGHWAY THAT IS
10 NOT AN INTERSTATE HIGHWAY AND THAT MEETS 1 OR MORE OF THE FOLLOWING
11 REQUIREMENTS:

12 (A) SERVES AS A CONNECTOR BETWEEN ORV AREAS, ROUTES, OR TRAILS
13 DESIGNATED BY THE DEPARTMENT OR AN ORV USER GROUP.

14 (B) PROVIDES ACCESS TO TOURIST ATTRACTIONS, FOOD SERVICE
15 ESTABLISHMENTS, FUEL, MOTELS, OR OTHER SERVICES.

16 (C) SERVES AS A CONNECTOR BETWEEN 2 SEGMENTS OF THE SAME
17 COUNTY ROAD THAT RUN ALONG DISCONTINUOUS TOWN LINES AND ON WHICH
18 ORV USE IS AUTHORIZED PURSUANT TO SUBSECTION (2) OR (3).

19 (D) INCLUDES A BRIDGE OR CULVERT THAT ALLOWS AN ORV TO CROSS A
20 RIVER, STREAM, WETLAND, OR GULLY THAT IS NOT CROSSED BY A COUNTY
21 ROAD OR STREET ON WHICH ORVS ARE AUTHORIZED TO OPERATE UNDER
22 SUBSECTION (2), (3), OR (5).

23 (8) THE STATE TRANSPORTATION DEPARTMENT MAY CLOSE A HIGHWAY TO
24 THE OPERATION OF ORVS OTHERWISE AUTHORIZED PURSUANT TO SUBSECTION
25 (6) AFTER WRITTEN NOTICE TO THE CLERK OF EACH LOCAL UNIT OF
26 GOVERNMENT WHERE THE HIGHWAY IS LOCATED AND THE SENATE AND HOUSE
27 COMMITTEES WITH PRIMARY RESPONSIBILITY FOR NATURAL RESOURCES,

RECREATION, AND TRANSPORTATION. THE NOTICE SHALL BE IN WRITING AND SENT BY FIRST-CLASS UNITED STATES MAIL OR PERSONALLY DELIVERED NOT LESS THAN 30 DAYS BEFORE THE ADOPTION OF THE RULE OR ORDER CLOSING THE HIGHWAY. THE NOTICE SHALL SET FORTH SPECIFIC REASONS FOR THE CLOSURE.

(9) ~~(6)~~—Subject to subsection (4), if a local unit of government adopts an ordinance pursuant to subsection (2), (3), or (5), a person may operate an ORV with the flow of traffic on the far right of the maintained portion of the ~~road or street~~ **COUNTY ROAD** covered by the ordinance. **IF THE OPERATION OF ORVS ON A HIGHWAY IS AUTHORIZED PURSUANT TO SUBSECTION (6), A PERSON MAY OPERATE AN ORV WITH THE FLOW OF TRAFFIC AS FOLLOWS:**

(A) ON THE RIGHT SHOULDER OF THE HIGHWAY.

(B) IF THERE IS NOT A RIGHT SHOULDER OR THE RIGHT SHOULDER IS NOT OF ADEQUATE WIDTH, ON THE RIGHT UNMAINTAINED PORTION OF THE HIGHWAY.

(C) ON THE FAR RIGHT OF THE RIGHT TRAFFIC LANE OF THE HIGHWAY, IF NECESSARY TO CROSS A BRIDGE OR CULVERT AND IF THE OPERATOR BRINGS THE ORV TO A COMPLETE STOP BEFORE ENTERING AND YIELDS THE RIGHT-OF-WAY TO AN APPROACHING VEHICLE ON THAT TRAFFIC LANE.

(10) A person shall not operate an ORV **AS AUTHORIZED** pursuant to subsection (2), (3), ~~or (5)~~, **OR (6)** at a speed greater than 25 miles per hour or a lower posted ORV speed limit or in a manner that interferes with traffic on the ~~road or street~~, **COUNTY ROAD, OR HIGHWAY.**

(11) ~~(7)~~—Unless the person possesses a license as defined in section 25 of the Michigan vehicle code, 1949 PA 300, MCL 257.25, a

1 person shall not operate an ORV **AS AUTHORIZED** pursuant to
 2 subsection (2), (3), ~~or~~ (5), **OR (6)** if the ORV is registered as a
 3 motor vehicle under chapter II of the Michigan vehicle code, 1949
 4 PA 300, MCL 257.201 to 257.259, and either is more than ~~60~~ 65
 5 inches wide or has 3 wheels. ORVs operated **AS AUTHORIZED** pursuant
 6 to subsection (2), (3), ~~or~~ (5), **OR (6)** shall travel single file,
 7 except that an ORV may travel abreast of another ORV when it is
 8 overtaking and passing, or being overtaken and passed by, another
 9 ORV.

10 (12) ~~(8)~~ A person shall not operate an ORV **AS AUTHORIZED**
 11 pursuant to this section without displaying a lighted headlight and
 12 lighted taillight.

13 (13) ~~(9)~~ A person under 18 years of age shall not operate an
 14 ORV **AS AUTHORIZED** pursuant to this section unless the person is in
 15 possession of a valid driver license or under the direct
 16 supervision of a parent or guardian and the person has in his or
 17 her immediate possession an ORV safety certificate issued pursuant
 18 to this part or a comparable ORV safety certificate issued under
 19 the authority of another state or a province of Canada. A person
 20 under 12 years of age shall not operate an ORV **AS AUTHORIZED**
 21 pursuant to this section. The requirements of this subsection are
 22 in addition to any applicable requirements of section 81129.

23 (14) ~~(10)~~ A township that has authorized the operation of ORVs
 24 on a **COUNTY** road under subsection (3) does not have a duty to
 25 maintain the **COUNTY** road in a condition reasonably safe and
 26 convenient for the operation of ORVs. **THIS STATE DOES NOT HAVE A**
 27 **DUTY TO MAINTAIN A HIGHWAY IN A CONDITION REASONABLY SAFE AND**

1 **CONVENIENT FOR THE OPERATION OF ORVS.** A board of county road
 2 commissioners, a county board of commissioners, or a municipality
 3 does not have a duty to maintain a **COUNTY** road or street under its
 4 jurisdiction in a condition reasonably safe and convenient for the
 5 operation of ORVs, except the following ORVs:

6 (a) ORVs registered as motor vehicles as provided in the code.

7 (b) ORVs permitted by an ordinance as provided in subsection
 8 (1).

9 **(15)** ~~(11) Beginning October 19, 1993, THIS STATE,~~ a board of
 10 county road commissioners, a county board of commissioners, ~~and a~~
 11 ~~county, are, and, beginning on April 25, 1995, a municipality is,~~
 12 **ARE** immune from tort liability for injuries or damages sustained by
 13 any person arising in any way out of the operation or use of an ORV
 14 ~~on maintained or unmaintained roads, streets, shoulders, and~~
 15 ~~rights-of-way over which the board of county road commissioners,~~
 16 ~~the county board of commissioners, or the municipality has~~
 17 ~~jurisdiction. THAT IS NOT REGISTERED UNDER THE CODE OR THAT IS~~
 18 **REGISTERED UNDER THE CODE BUT IS OPERATED AS AUTHORIZED PURSUANT TO**
 19 **SUBSECTION (2), (3), (5), OR (6).** The immunity provided by this
 20 subsection does not apply to actions that constitute gross
 21 negligence. As used in this subsection, "gross negligence" means
 22 conduct so reckless as to demonstrate a substantial lack of concern
 23 for whether an injury results.

24 **(16)** ~~(12)~~ In a court action in this state, if competent
 25 evidence demonstrates that a vehicle that is permitted to operate
 26 on a road, ~~or~~ street, **OR HIGHWAY** pursuant to the code was in a
 27 collision **ON A ROADWAY** with an ORV ~~required to be operated on the~~

~~far right of the maintained portion of a road or street pursuant to an ordinance adopted under subsection (2), (3), or (5), THAT IS NOT REGISTERED UNDER THE CODE,~~ the operator of the ORV shall be considered prima facie negligent.

(17) ~~(13)~~ A violation of an ordinance described in this section is a municipal civil infraction. The ordinance may provide for a ~~maximum~~ fine of not more than \$500.00 for a violation of the ordinance. In addition, the court shall order the defendant to pay the cost of repairing any damage to the environment, a ~~road or~~ street, **COUNTY ROAD, OR HIGHWAY**, or public property ~~damaged~~ as a result of the violation.

(18) ~~(14)~~ The treasurer of the local unit of government shall deposit fines collected by that local unit of government under section 8379 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8379, and subsection ~~(13)~~ **(17)** and damages collected under subsection ~~(13)~~ **(17)** into a fund to be designated as the "ORV fund". The legislative body of the local unit of government shall appropriate revenue in the ORV fund as follows:

(a) Fifty percent to the county sheriff or police department responsible for law enforcement in the local unit of government for ORV enforcement and training.

(b) Fifty percent to the board of county road commissioners or, in the case of a city or village, to the department responsible for street maintenance in the city or village. ~~7~~ **HOWEVER, IF A FINE WAS COLLECTED FOR A VIOLATION OF AN ORDINANCE ADOPTED UNDER SUBSECTION (6), 50% OF THE FINE REVENUE SHALL BE APPROPRIATED TO THE STATE TRANSPORTATION DEPARTMENT. REVENUE APPROPRIATED UNDER**

1 **THIS SUBDIVISION SHALL BE USED** for repairing damage to ~~roads or~~
 2 **streets, COUNTY ROADS, OR HIGHWAYS** and the environment that may
 3 have been caused by ORVs and for posting signs indicating ORV speed
 4 limits or indicating whether ~~roads or streets, COUNTY ROADS, OR~~
 5 **HIGHWAYS** are open or closed to the operation of ORVs ~~under AS~~
 6 **AUTHORIZED PURSUANT TO** this section.

7 ~~—— (15) As used in this section:~~

8 ~~—— (a) "Eligible county" means any of the following:~~

9 ~~—— (i) Oceana, Newaygo, Montcalm, Gratiot, Saginaw, Tuscola, or~~
 10 ~~Sanilac county or a county lying north thereof, including all of~~
 11 ~~the counties of the Upper Peninsula.~~

12 ~~—— (ii) St. Clair county.~~

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

15 ~~—— (c) "Municipality" means a city or village.~~

16 ~~—— (d) "Road" means a county primary road or county local road as~~
 17 ~~described in section 5 of 1951 PA 51, MCL 247.655.~~

18 ~~—— (e) "Street" means a city or village major street or city or~~
 19 ~~village local street as described in section 9 of 1951 PA 51, MCL~~
 20 ~~247.659.~~

21 **(19) A PERSON WHO VIOLATES A RULE PROMULGATED OR ORDER ISSUED**
 22 **UNDER SUBSECTION (6) IS RESPONSIBLE FOR A STATE CIVIL INFRACTION**
 23 **AND MAY BE ORDERED TO PAY A CIVIL FINE OF NOT MORE THAN \$500.00. IN**
 24 **ADDITION, THE COURT SHALL ORDER THE DEFENDANT TO PAY THE COST OF**
 25 **REPAIRING ANY DAMAGE TO THE ENVIRONMENT, A HIGHWAY, OR PUBLIC**
 26 **PROPERTY AS A RESULT OF THE VIOLATION.**