

SENATE BILL No. 176

February 28, 1989, Introduced by Senators BARCIA, SCHWARZ, FESSLER and O'BRIEN and referred to the Committee on State Affairs, Tourism, and Transportation.

A bill to amend sections 1, 7, and 17 of Act No. 319 of the Public Acts of 1975, entitled

"An act to provide for the registration and regulation of off-road recreation vehicles; and to provide penalties,"

section 17 as amended by Act No. 166 of the Public Acts of 1985, being sections 257.1601, 257.1607, and 257.1617 of the Michigan Compiled Laws; and to add section 17a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1, 7, and 17 of Act No. 319 of the
2 Public Acts of 1975, section 17 as amended by Act No. 166 of the
3 Public Acts of 1985, being sections 257.1601, 257.1607, and
4 257.1617 of the Michigan Compiled Laws, are amended and section
5 17a is added to read as follows:

6 Sec. 1. As used in this act:

1 (A) "ATV" MEANS A MOTORIZED OFF-ROAD VEHICLE THAT IS NOT
2 MORE THAN 50 INCHES IN WIDTH, HAS A DRY WEIGHT OF NOT MORE THAN
3 600 POUNDS, TRAVELS ON 3 OR MORE LOW PRESSURE TIRES, HAS A SEAT
4 DESIGNED TO BE STRADDLED BY THE OPERATOR, AND HAS HANDLEBARS FOR
5 STEERING CONTROL.

6 (B) ~~(a)~~ "Commission" means the commission of natural
7 resources.

8 (C) ~~(b)~~ "Dealer" means a person engaged in the sale,
9 lease, or rental of an ORV as a regular business.

10 (D) ~~(c)~~ "Decal" means a pressure sensitive adhesive backed
11 label, of size and color to be determined by the department of
12 state, to indicate the certificate of registration number awarded
13 the ORV and is valid until the expiration date shown thereon.

14 (E) ~~(d)~~ "Department" means department of state.

15 (F) ~~(e)~~ "Forest road" means a hard surfaced road, gravel
16 or dirt road, fire lane, abandoned railroad right-of-way, logging
17 road, or a way capable of travel by a 4-wheel vehicle, except an
18 interstate, state, or county highway.

19 (G) ~~(f)~~ "Forest trail" means an existing 1-track path or
20 way capable of travel by a 2-wheel or 3-wheel vehicle less than
21 40 inches in width.

22 (H) ~~(g)~~ "Highway" means the entire width between the
23 boundary lines of a way publicly maintained when any part
24 ~~thereof~~ OF THAT WAY is open to the use of the public for pur-
25 poses of vehicular travel.

26 (I) ~~(h)~~ "Operate" means to ride in or on, and be in actual
27 physical control of the operation of an ORV.

1 (J) ~~(i)~~ "Operator" means a person who operates, or is in
2 actual physical control of the operation of an ORV.

3 (K) ~~(j)~~ "ORV" or "vehicle" means a motor driven off-road
4 recreation vehicle capable of cross-country travel without bene-
5 fit of a road or trail, on or immediately over land, snow, ice,
6 marsh, swampland, or other natural terrain. It includes, but is
7 not limited to, AN ATV, a multitrack or multiwheel drive or low
8 pressure tire vehicle, a motorcycle or related 2-wheel or 3-wheel
9 vehicle, an amphibious machine, a ground effect air cushion vehi-
10 cle, or other means of transportation deriving motive power from
11 a source other than muscle or wind. "ORV" or "vehicle" does not
12 include a registered snowmobile, a farm vehicle being used for
13 farming, a vehicle used for military, fire, emergency, or law
14 enforcement purposes, a construction or logging vehicle used in
15 performance of its common function, or a registered aircraft.

16 (L) ~~(k)~~ "Owner" means any of the following:

17 (i) A vendee or lessee of an ORV which is the subject of an
18 agreement for the conditional sale or lease ~~thereof~~ OF AN ORV,
19 with the right of purchase upon performance of the conditions
20 stated in the agreement, and with an immediate right of posses-
21 sion vested in the conditional vendee or lessee.

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

24 (iii) A person who holds legal ownership of the vehicle.

25 (M) ~~(l)~~ "Person" means an individual, partnership, corpo-
26 ration, the state or any of its agencies or subdivisions, or a
27 body of persons whether incorporated or not.

1 (N) ~~(m)~~ "Roadway" means that portion of a highway
2 improved, designated, or ordinarily used for vehicular travel.
3 If a highway includes 2 or more separate roadways, the term road-
4 way refers to a roadway separately, but not to all roadways
5 collectively.

6 (O) ~~(n)~~ "VIN" means a vehicle identification number.

7 Sec. 7. The revenue received under this act shall be cred-
8 ited to the general fund of the state. From the revenues
9 obtained pursuant to section 6, the legislature shall make an
10 annual appropriation to the department of state for administra-
11 tion of the registration provisions of this act, TO THE DEPART-
12 MENT OF EDUCATION FOR THE ADMINISTRATION AND IMPLEMENTATION OF AN
13 ATV SAFETY EDUCATION PROGRAM, and to the department of natural
14 resources for purposes of constructing and maintaining trails and
15 areas on lands under its control and restoration of public lands
16 damaged by ORV use; acquiring and leasing of lands, easements,
17 and rights of way to provide for additional trails and areas;
18 policing; administration and implementation of ~~a~~ AN ORV safety
19 education and training program; conducting research to off-road
20 vehicles and their effects and impact on this state and its envi-
21 ronment; and acquiring equipment necessary to implement this
22 act. The department of state and the department of natural
23 resources shall include in their annual budget requests informa-
24 tion detailing these programs. The budget requests shall not
25 exceed anticipated revenues.

26 Sec. 17. (1) A parent or legal guardian shall not permit a
27 child under 12 years of age to operate a vehicle without the

1 direct supervision of an adult, except on land owned by, or under
2 the control of, the parent or legal guardian.

3 (2) The owner or person in charge or in control of a vehicle
4 shall not knowingly permit:

5 (a) The vehicle to be operated by a person under the age of
6 12 without direct AND IMMEDIATE supervision of an adult.

7 (b) The vehicle to be operated by a person who is incompe-
8 tent to operate the vehicle because of mental or physical dis-
9 ability except as provided in section 18, or because the person
10 is under the influence of intoxicating liquor; a controlled sub-
11 stance as defined by section 7104 of Act No. 368 of the Public
12 Acts of 1978, as amended, being section 333.7104 of the Michigan
13 Compiled Laws; or a combination of intoxicating liquor and a con-
14 trolled substance.

15 (3) A PERSON WHO IS UNDER 18 YEARS OF AGE, BEFORE OPERATING
16 AN ATV OR ORV, SHALL COMPLETE AN 8-HOUR ATV SAFETY EDUCATION
17 COURSE PROVIDED BY THE DEPARTMENT OF EDUCATION OR AN 8-HOUR ORV
18 SAFETY EDUCATION AND TRAINING COURSE PROVIDED BY THE DEPARTMENT
19 OF NATURAL RESOURCES, OR BOTH, AS APPLICABLE. THESE RESPECTIVE
20 8-HOUR COURSES SHALL INCLUDE A WRITTEN EXAMINATION AND A DRIVING
21 TEST DESIGNED TO TEST THE COMPETENCY OF THE APPLICANT. UPON SUC-
22 CESSFUL COMPLETION OF AN ATV OR ORV SAFETY EDUCATION COURSE, OR
23 BOTH, AS APPLICABLE, A PERSON SHALL RECEIVE AN ATV OR ORV SAFETY
24 CERTIFICATE, OR BOTH, AS APPLICABLE.

25 (4) ~~-(3)-~~ The department of natural resources shall imple-
26 ment a comprehensive ORV ~~information,~~ AND THE DEPARTMENT OF
27 EDUCATION SHALL IMPLEMENT A COMPREHENSIVE ATV safety education —

1 ~~and training program which~~ AND EACH DEPARTMENT shall ~~include~~
2 ~~the preparation and dissemination of information and safety~~
3 ~~advice to the public and training of operators~~ PROMULGATE RULES
4 PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT
5 NO. 306 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS 24.201 TO
6 24.328 OF THE MICHIGAN COMPILED LAWS, REGARDING TEACHER QUALIFI-
7 CATIONS, ESTABLISHMENT OF COURSES, AND OTHER REQUIREMENTS UNDER
8 THIS SECTION. The ~~program~~ PROGRAMS shall provide for ~~the~~
9 training ~~of youthful operators~~ and for the issuance of ATV AND
10 ORV safety certificates to those who successfully complete the
11 ~~training provided under the program~~ RESPECTIVE PROGRAMS.

12 (5) ~~(4)~~ In implementing ~~a program which is~~ PROGRAMS
13 established pursuant to this section, the department of natural
14 resources AND THE DEPARTMENT OF EDUCATION shall cooperate with
15 private organizations and associations, private and public corpo-
16 rations, the department of ~~education~~ STATE, and local govern-
17 mental units. The department of natural resources AND THE
18 DEPARTMENT OF EDUCATION shall consult with ATV, ORV, and environ-
19 mental organizations and associations in regard to THE subject
20 matter of a ~~training~~ SAFETY EDUCATION program and performance
21 testing that leads to certification of ATV AND ORV operators.

22 (6) ~~(5)~~ The department of natural resources ~~may~~ AND THE
23 SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL EACH designate a
24 person ~~it considers qualified to provide course instruction~~ TO
25 BE THE STATE COORDINATOR OF THE RESPECTIVE ORV AND ATV SAFETY
26 EDUCATION PROGRAMS and to award ATV AND ORV safety certificates.
27 THE PERSONS DESIGNATED UNDER THIS SUBSECTION MUST HAVE

1 SUCCESSFULLY COMPLETED AN ATV OR ORV SAFETY CHIEF INSTRUCTOR
2 COURSE, AS APPLICABLE, AS PROVIDED BY THE RESPECTIVE DEPARTMENTS.

3 (7) THE DEPARTMENT OF NATURAL RESOURCES AND THE SUPERINTEN-
4 DENT OF PUBLIC INSTRUCTION SHALL EACH DESIGNATE A PERSON WHO HAS
5 SUCCESSFULLY COMPLETED AN ATV OR ORV SAFETY CHIEF INSTRUCTOR
6 COURSE, AS APPLICABLE, TO PERFORM ANNUAL INSPECTIONS OF SAFETY
7 COURSE SITES.

8 (8) ~~(6)~~ A person who is at least 12 years of age but less
9 than 16 years of age ~~may operate~~ BEFORE OPERATING an ATV OR ORV
10 ~~if that person satisfies any~~ SHALL SATISFY ALL of the
11 following:

12 (a) ~~is~~ OPERATE THE ATV OR ORV under the direct supervision
13 of a person who is 18 years of age or older.

14 (b) ~~is~~ OPERATE THE ATV OR ORV on land owned or under the
15 control of a parent or legal guardian.

16 (c) ~~Has~~ HAVE in his or her immediate possession an ATV OR
17 ORV safety certificate issued pursuant to ~~subsection (3)~~ THIS
18 SECTION.

19 ~~(d) Possesses an ORV safety certificate issued under the~~
20 ~~authority of another state or a province of Canada.~~

21 (9) ~~(7)~~ When operating an ATV OR ORV under ~~subdivision~~
22 ~~(c) or (d)~~, SUBSECTION (8)(C), that person shall present the ATV
23 OR ORV safety certificate to a peace officer upon demand.

24 (10) ~~(8)~~ Notwithstanding any other provision of this sec-
25 tion, an operator who is under 12 years of age shall not cross a
26 highway or street. An operator who is at least 12 years of age
27 but less than 16 years of age may cross a highway or street or

1 operate on the right of way or shoulder of designated access
2 routes pursuant to section 18 if the operator has a valid ATV OR
3 ORV safety certificate in his or her immediate possession.

4 SEC. 17A. (1) AN ATV OR ORV SAFETY EDUCATION COURSE
5 REQUIRED IN SECTION 17 MAY BE CONDUCTED BY A PRIVATE BUSINESS
6 ENTERPRISE.

7 (2) THE DEPARTMENT OF EDUCATION AND THE DEPARTMENT OF NATU-
8 RAL RESOURCES SHALL PROMULGATE RULES PURSUANT TO THE ADMINISTRA-
9 TIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF
10 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED
11 LAWS, TO PROVIDE STANDARDS FOR THE ESTABLISHMENT AND REGULATION
12 OF ATV AND ORV SAFETY EDUCATION COURSES CONDUCTED UNDER THIS SEC-
13 TION AND AWARDING OF ATV AND ORV SAFETY CERTIFICATES.

14 Section 2. This amendatory act shall not take effect unless
15 Senate Bill No. ____ or House Bill No. ____ (request
16 no. 01094'89) of the 85th Legislature is enacted into law.