

Act No. 17  
Public Acts of 1991  
Approved by the Governor  
May 7, 1991  
Filed with the Secretary of State  
May 7, 1991

**STATE OF MICHIGAN  
86TH LEGISLATURE  
REGULAR SESSION OF 1991**

Introduced by Reps. Alley, Bartnik, Power, Sikkema, Brown, DeBeaussaert and Hickner  
Reps. Anthony, Barns, Berman, Bobier, DeMars, Dobronski, Dolan, Gire, Gnodtke, Gubow, Hertel,  
Hunter, Jondahl, Kosteva, Law, Leland, McBryde, Murphy, Olshove, Ostling, Pitoniak, Saunders,  
Scott, Shugars, Stallworth, Varga, Wallace and Wozniak named co-sponsors

## **ENROLLED HOUSE BILL No. 4010**

AN ACT to amend the title and sections 1, 4, 4a, 4b, 4c, 4d, 4e, 6a, 6b, 16, 17a, 18, 20, and 24 of Act No. 319 of the Public Acts of 1975, entitled as amended "An act to provide for the titling, licensure, and regulation of off-road recreation vehicles; to create certain funds; to prescribe the powers and duties of certain officers, agencies, and institutions; and to provide penalties," sections 1, 4, and 20 as amended and sections 4a, 4b, 4c, 4d, 4e, and 6a as added by Act No. 71 of the Public Acts of 1990, sections 6b and 17a as added by Act No. 56 of the Public Acts of 1990, section 18 as amended by Act No. 112 of the Public Acts of 1986, and section 24 as amended by Act No. 241 of the Public Acts of 1989, being sections 257.1601, 257.1604, 257.1604a, 257.1604b, 257.1604c, 257.1604d, 257.1604e, 257.1606a, 257.1606b, 257.1616, 257.1617a, 257.1618, 257.1620, and 257.1624 of the Michigan Compiled Laws; to add sections 6c, 16b, 16c, 16d, 16e, and 24a; and to repeal certain parts of the act on a specific date.

*The People of the State of Michigan enact:*

Section 1. The title and sections 1, 4, 4a, 4b, 4c, 4d, 4e, 6a, 6b, 16, 17a, 18, 20, and 24 of Act No. 319 of the Public Acts of 1975, sections 1, 4, and 20 as amended and sections 4a, 4b, 4c, 4d, 4e, and 6a as added by Act No. 71 of the Public Acts of 1990, sections 6b and 17a as added by Act No. 56 of the Public Acts of 1990, section 18 as amended by Act No. 112 of the Public Acts of 1986, and section 24 as amended by Act No. 241 of the Public Acts of 1989, being sections 257.1601, 257.1604, 257.1604a, 257.1604b, 257.1604c, 257.1604d, 257.1604e, 257.1606a, 257.1606b, 257.1616, 257.1617a, 257.1618, 257.1620, and 257.1624 of the Michigan Compiled Laws, are amended and sections 6c, 16b, 16c, 16d, 16e, and 24a are added to read as follows:

### **TITLE**

An act to provide for the titling, licensure, and regulation of off-road recreation vehicles; to create certain funds; to create certain advisory bodies and to prescribe their powers and duties; to prescribe powers and duties of certain officers, agencies, and institutions; to repeal certain parts of this act on a specific date; and to provide penalties and remedies.

Sec. 1. As used in this act:

(a) "ATV" means a 3- or 4-wheeled vehicle designed for off-road use that has low pressure tires, has a seat designed to be straddled by the rider, and is powered by a 50cc to 500cc gasoline engine or an engine of comparable size using other fuels.

(b) "Code" means the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws.

(c) "Commission" means the commission of natural resources.

(d) "Dealer" means a person engaged in the sale, lease, or rental of an ORV as a regular business.

(e) "Department" means the department of natural resources.

(f) "Designated" means posted open for ORV use with appropriate signs by the department.

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

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

(i) "Handicapper" means a person who has 1 or more of the following physical characteristics:

(i) Blindness.

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

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

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

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

(vi) A cardiovascular disease from which the person measures between 3 and 4 on the New York heart classification scale, or from which a marked limitation of physical activity causes fatigue, palpitation, dyspnea, or anginal pain.

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

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

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

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

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

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

(o) "ORV" or "vehicle" means a motor driven off-road recreation vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. It includes, but is not limited to a multitrack or multiwheel drive vehicle, an ATV, a motorcycle or related 2-wheel, 3-wheel, or 4-wheel vehicle, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation deriving motive power from a source other than muscle or wind. "ORV" or "vehicle" does not include a registered snowmobile, a farm vehicle being used for farming, a vehicle used for military, fire, emergency, or law enforcement purposes, a vehicle owned and operated by a utility company or an oil or gas company when performing maintenance on its facilities or on property over which it has an easement, a construction or logging vehicle used in performance of its common function, or a registered aircraft.

(p) "Owner" means any of the following:

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

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

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

(q) "Person" means an individual, partnership, corporation, the state or any of its agencies or subdivisions, or a body of persons whether incorporated or not.

(r) "Public agency" means the department or a local or federal unit of government. .

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

(t) "Route" means a forest road or other road that is designated for purposes of this act by the department.

(u) "Safety education fund" means the safety education fund created pursuant to section 6b.

(v) "Safety chief instructor" means a person who has been certified by a nationally recognized ATV and ORV organization to certify instructors and to do on-sight evaluations of instructors.

(w) "Trail improvement fund" means the ORV trail improvement fund created pursuant to section 6a.

(x) "Visual supervision" means the direct observation of the operator with the unaided or normally corrected eye, where the observer is able to come to the immediate aid of the operator.

Sec. 4. (1) A person shall not sell or otherwise transfer an ORV to a dealer, to be used by the dealer for purposes of display and resale, without delivering to the dealer a manufacturer's certificate of origin executed in accordance with this section. A dealer shall not purchase or otherwise acquire a new ORV without obtaining a manufacturer's certificate of origin.

(2) A manufacturer's certificate of origin shall contain the following information:

(a) A description of the ORV, including year, make, model or series, and vehicle identification number.

(b) Certification of the date of the ORV's transfer to the dealer.

(c) The dealer's name and address.

(d) Certification that this transaction is the first transfer of the new ORV in ordinary commerce.

(e) The transferor's signature and address.

(3) An assignment of a manufacturer's certificate of origin shall be printed on the reverse side of the certificate. The assignment shall include the name and address of the transferee, a certification that the ORV is new, and a warranty that the title at the time of delivery is subject only to the secured interests set forth in the assignment.

Sec. 4a. (1) An application for an ORV certificate of title shall be on a form prescribed by the department of state. The application shall be certified by the owner or purchaser and shall contain, in addition to other information required by the department of state, the following information:

(a) The applicant's name and address.

(b) A statement of any security interest or other liens on the ORV, along with the name and address of any lienholder.

(c) If a lien is not outstanding, a statement of that fact.

(d) A description of the ORV, including the year, make, model or series, and vehicle identification number.

(2) An application for an ORV certificate of title which indicates the existence of a security interest in the ORV shall, if requested by the security interest holder, be accompanied by a copy of the security agreement, which may be unsigned. The department of state shall indicate on the copy the date and place of filing and shall return the copy to the person who filed the application. The filer shall forward the copy to the security interest holder identified in the application.

Sec. 4b. (1) The purchaser or other transferee of an ORV subject to the titling provisions of this act shall, except as provided in subsection (2), make application to the department of state for issuance of a certificate of title to the ORV. The application shall be filed within 15 days after the date of purchase or transfer.

(2) A dealer selling ORVs at retail, within 15 days after delivering an ORV to a retail purchaser, shall make application for issuance of an ORV certificate of title in the purchaser's name. The purchaser of the ORV shall sign the application and other papers necessary to enable the dealer to secure the title from the department of state. If the ORV was not previously titled, the application shall be accompanied by a manufacturer's certificate of origin.

(3) At the request of the applicant, the department of state shall process an application for an ORV certificate of title on an expedited basis.

(4) An application filed with the department of state pursuant to this section shall be accompanied by the fee or fees prescribed in section 4c.

(5) Beginning January 1, 1992, a person who violates this section is responsible for a civil violation and subject to a civil fine of not more than \$100.00 plus costs.

Sec. 4c. (1) The department of state shall charge a fee of \$11.00 for processing an application for an ORV certificate of title or a duplicate ORV certificate of title. The department of state shall charge an additional fee of \$5.00 for processing an application on an expedited basis.

(2) If a check or draft in payment of a required fee is not paid on its first presentation, the fee is delinquent as of the date the check or draft was tendered. The person tendering the check or draft remains liable for the payment of each fee and any penalty.

(3) The department of state may suspend an ORV certificate of title if the department of state has determined that a fee prescribed in this section has not been paid and remains unpaid after reasonable notice or demand.

(4) If a fee is still delinquent 15 days after the department of state has given notice to a person who tendered the check or draft, a \$10.00 penalty shall be assessed and collected in addition to the fee.

(5) The revenue collected from the fees imposed under this section shall be used to support the administrative costs of the secretary of state required by this section. Annual revenue collected in excess of these administrative costs shall be credited to the ORV trail improvement fund created in section 6a. Amounts appropriated for administrative costs but unexpended shall be credited to the ORV trail improvement fund.

Sec. 4d. (1) The department of state may refuse to issue an original or duplicate ORV certificate of title if any of the following occur:

(a) The applicant has failed to furnish all required information or reasonable additional information requested by the department of state.

(b) The required fee has not been paid.

(c) The applicant is not entitled to an ORV certificate of title under this act.

(d) The ORV is titled under the code.

(e) The application contains a false or fraudulent statement.

(f) The department of state has reasonable grounds to believe that the ORV was stolen or embezzled.

(2) If satisfied that the applicant is the owner of the ORV and is otherwise entitled to an ORV certificate of title, the department of state shall issue an ORV certificate of title in the applicant's name. The certificate shall be mailed or otherwise delivered to the owner of the ORV or to another person specified by the owner in a separate instrument, in a form prescribed by the department of state.

(3) If the secretary of state is not satisfied as to the ownership of an ORV which is not a late model ORV and whose value does not exceed \$1,500.00, the secretary of state shall require the applicant to certify that the applicant is the owner of the ORV and therefore entitled to make application for a certificate of title for the ORV.

Sec. 4e. (1) An ORV certificate of title shall be manufactured in a manner to prohibit as nearly as possible the ability to reproduce, alter, counterfeit, forge, or duplicate the certificate without ready detection and shall contain on its face the information set forth in the application, including a notation of all secured interests in the ORV; the date on which the application was filed; and other information required by the department of state.

(2) The department of state shall prescribe a uniform method of numbering ORV certificates of title.

(3) An ORV certificate of title shall contain, upon its reverse side, a form for assignment and warranty of title by the owner with space for the notation of a security interest in the ORV. The reverse side of the ORV certificate of title may also contain other forms that the department of state considers necessary to facilitate the effective administration of this act. The certificate shall bear the coat of arms of this state.

(4) A person who intentionally reproduces, alters, counterfeits, forges, or duplicates an ORV certificate of title or who uses a reproduced, altered, counterfeited, forged, or duplicated ORV certificate of title is subject to the following penalties:

(a) If the intent of reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense punishable by imprisonment for 1 or more years, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a misdemeanor, punishable by imprisonment for a period equal to that which could be imposed for the commission of the offense the person had the intent to aid or commit. The court may also assess a fine of not more than \$5,000.00 against the person.

(b) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense punishable by imprisonment for not more than 1 year, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or a fine of not more than \$1,000.00, or both.

Sec. 6a. (1) Beginning April 30, 1990, the ORV trail improvement fund is created in the state treasury. The fund shall be administered by the department and shall be used for the signing, improvement, maintenance, and construction of ORV trails, routes, or areas, for the administration and enforcement of this act, for the leasing of land, for the acquisition of easements, permits, or other agreements for the use of land for ORV trails, routes, or areas, and for the restoration of any of the natural resources of this state on public land that are damaged due to ORV use in conjunction with the plan required by section 16.

(2) Beginning April 1, 1990, \$6.00 of the revenue from each fee collected under section 6 shall be deposited in the fund. Except as provided in section 6b, beginning April 1, 1993, all of the revenue from each fee collected under section 6 shall be deposited in the fund.

(3) The department may accept gifts, grants, or bequests from any public or private source or from the federal, state, or a local unit of government for the purposes of the fund.

(4) All funds allocated under this act shall be for projects which are open to the public.

(5) Any money remaining in the ORV trail improvement fund at the end of a fiscal year shall be carried over in the fund to the next and succeeding fiscal years and shall only be used for the purposes stated in this section.

(6) No money in the ORV trail improvement fund may be expended until the comprehensive system for ORV use required by section 16d is approved in the manner provided in section 16d.

Sec. 6b. (1) Beginning April 17, 1990, the safety education fund is created in the state treasury. The fund shall be administered by the department of education and shall be used for the purposes described in section 17(a).

(2) Beginning April 1, 1991, \$1.00 of the revenue from each fee collected under section 6 shall be deposited in the safety education fund.

(3) The department of education may accept gifts, grants, or bequests from any public or private source or the federal, state, or a local unit of government for the purposes of the fund.

(4) Any money remaining in the safety education fund at the end of a fiscal year shall be carried over in the fund to the next and succeeding fiscal years and shall only be used for the purposes stated in this section.

Sec. 6c. (1) Not less than 40% of the revenue in the ORV trail improvement fund in any year shall be distributed each year in the form of grants for the purpose of planning, improving, constructing, signing, and maintaining ORV trails, areas, and routes and access to those trails, areas, and routes, the leasing of land, the acquisition of easements, permits, or other agreements for the use of land for ORV trails, areas, and routes, to public agencies and nonprofit incorporated clubs and organizations.

(2) An application by a public agency or a nonprofit incorporated club or organization shall include a plan for restoration of any of the natural resources of this state on public land that are damaged due to ORV use. The public agencies or nonprofit incorporated clubs or organizations shall indicate on their application that their use of grant money is consistent with, and meets the requirements of, the plan developed by the department pursuant to section 16, and the trail, route, or area is available to the public. The department shall not approve a grant unless the application meets the requirements of the plan. The department shall make application forms available and consider grant requests on a yearly basis in consultation with the ORV trails advisory committee created in section 16b.

(3) A grant shall not be made for a trail, route, or area unless the trail, route, or area is available for ORV use and is approved by the department. A grant for the cost of leasing of land and the acquisition of easements, permits, or other agreements may equal 100% of incurred expense. Specifications shall be prescribed by the department.

(4) Not less than 30% of the revenue in the fund in any year shall be used each year for enforcement of this act. Of this amount available for enforcement, the department shall make available funds for distribution in the form of grants by the department to the county sheriffs' departments in the following percentage amounts: 60% of the funds available for the first year of operation of the fund; 50% of the funds available in the second year; and 40% of the funds available in the third year and each year thereafter. The balance of the funds available shall be used by the department. In making grants available for distribution under this subsection, the department shall consider the following factors:

(a) The number of miles of ORV trails, routes, or areas within the county.

(b) The number of sheriff's department employees available for enforcement of this act.

(c) The estimated number of ORVs within the county and that are brought into the county for ORV use.

(d) The estimated number of days that ORVs may be used within that county.

(e) Any other factors considered appropriate by the department.

The department shall require a county sheriff receiving a grant under this subsection to maintain records and submit an annual report to verify expenditure of grant money received.

(5) Not less than 20% of the revenue in the ORV trail improvement fund in any year shall be distributed each year in the form of grants to public agencies and nonprofit incorporated clubs and organizations for the restoration of damage that is caused by ORV use to natural resources on public land. A grant under this subsection may be in addition to a grant under subsection (1). An application for a grant under this subsection shall comply with subsection (2).

(6) Twenty-five thousand dollars shall be appropriated for the fiscal year ending September 30, 1991 only from the fund to the department of education and credited to the safety education fund to supplement funds received by the department of education under this act.

(7) Not more than 5% of the revenue in the fund in any year shall be used for administration of this act.

(8) The remainder of the revenue in the fund in any given year may be used for the purposes described in subsections (1) and (4), except that in the first year of operation of the fund, the remainder shall be used as prescribed in subsection (4). If the remainder of the fund is used for the purposes described in subsection (4), it shall be allocated as provided in subsection (4).

(9) Grants under this section shall remain available until expended once a contract or commitment has been entered into under this section. A contract shall be for a period of not more than 2 years. A grant not expended within the contract period may be renewed by the department by entering into a new contract.

(10) This section is repealed effective January 1, 1995.

Sec. 16. (1) The department shall, by October 1, 1991, develop a comprehensive plan for the management of ORV use of areas, routes, and trails maintained by or under the jurisdiction of the department or a local unit of government pursuant to section 18. The plan shall, as a minimum, set forth the following methods and timetable:

(a) The inventorying, by appropriate means, of all areas, forest roads, and forest trails used by or suitable for use by ORVs.

(b) The identification and evaluation of the suitability of areas, forest roads, and forest trails to sustain ORV use.

(c) The designation of areas, forest roads, and forest trails for ORV use including use by handicappers.

(d) The development of resource management plans to maintain areas, forest roads, or forest trails and to restore or reconstruct damaged areas, forest roads, or forest trails. The plans shall include consideration of the social, economic, and environmental impact of ORV use.

(e) Specifications for trails and areas.

(2) The plan shall be revised every 2 years. The plan shall be submitted to the commission for approval. After the commission approves the plan, it shall be submitted to the legislature for approval. The legislature shall approve the plan without amendment by concurrent resolution adopted by both standing committees of the house and senate that consider natural resources matters and both houses of the legislature by recorded vote. The department shall submit any subsequent revisions to the plan approved by the commission to the secretary of the senate and the clerk of the house of representatives at least 20 session days before the effective date of the revisions determined by the commission. If both standing committees of the house and senate that consider natural resources matters fail to reject the revisions within those 20 session days, the revisions shall be considered approved.

(3) The plan may designate where bicyclists, hikers, equestrians, and other nonconflicting recreation trail users may use ORV trails or areas.

(4) Within 1 year after the effective date of the amendatory act that added this subsection, the department shall designate an appropriate area in the northern Lower Peninsula and an appropriate area in southeast Michigan as a scramble area.

(5) Copies of maps of trails shall be prepared and made available by the department in sufficient quantities to accompany each ORV certificate of title issued by the secretary of state and to place in each county sheriff's office and each department of natural resources field office.

Sec. 16b. (1) The ORV trails advisory committee is created within the department which shall assist the department in developing criteria for grants, nominate forest roads to be included as ORV routes, nominate forest trails, assist the department in promulgating rules, and assist the department in developing the plan required by section 16. The advisory committee shall advise the department on recommendations made by ORV users of forest trails, roads, and areas that should be designated for ORV use. The advisory committee shall consist of 6 members appointed by the director of the department on or before May 15, 1991. Three of the members shall represent ORV trail users and dealers. Two of the members shall represent natural resources, conservation, or environmental groups. One member shall represent law enforcement. At least 1 member shall be from the Upper Peninsula of this state. Members shall be appointed for terms of 3 years except that of the

members first appointed, 1 member from each group and the member representing law enforcement shall be appointed for 3 years and the balance of the members shall be appointed for 2 years. The committee shall meet at least once each year.

(2) This section is repealed effective January 1, 1995.

Sec. 16c. (1) Sections 16, 16b, and 16d shall not apply to the Upper Peninsula of this state.

(2) The Upper Peninsula task force on ORV usage is created within the department. Within 60 days after the effective date of the amendatory act that added this subsection, the director of the department shall appoint 9 members to constitute the task force. The task force shall meet at least twice each year during 1991, 1992, and 1993.

(3) The task force shall evaluate the extent of ORV usage in the Upper Peninsula, nominate forest roads to be included as ORV routes, and monitor any damage caused due to ORV usage. The task force shall submit a report with its recommendations to the director of the department and the commission by January 1, 1994.

(4) This section is repealed effective January 1, 1995.

Sec. 16d. (1) The department shall develop a comprehensive system for the use of ORVs on routes, trails, and areas which shall be submitted to the commission for approval within 10 days after the effective date of the amendatory act that added this section. If the commission approves the system, it shall establish an effective date for implementation of the system. The department shall submit the system approved by the commission to the secretary of the senate and the clerk of the house of representatives. The legislature shall approve the system without amendment by concurrent resolution adopted by both standing committees of the house and senate that consider natural resources matters and both houses of the legislature by recorded vote. After the system is approved and implemented under this section, all state owned land under the jurisdiction of the department shall be closed to ORV use on the effective date determined by the commission except designated routes, designated trails, and designated areas. The commission shall approve any subsequent revisions to the system and shall establish an effective date for the revisions. The department shall submit the revisions approved by the commission to the secretary of the senate and the clerk of the house of representatives at least 20 session days before the effective date determined by the commission. If both standing committees of the house and senate that consider natural resources matters fail to reject the revisions within those 20 session days, they shall be considered approved.

(2) In developing the system, the department shall consider the needs of hunters, senior citizens, and handicappers.

(3) This section is repealed effective January 1, 1995.

Sec. 16e. (1) Effective January 1, 1994, a citizens review board shall be established. The review board shall consist of 6 members of the general public and the director of the legislative service bureau division of science and technology who shall serve as the nonvoting chairperson. The 6 members of the general public shall be from or representative of the soil conservation service, the Michigan association of counties, natural resources, conservation, or environmental groups, the largest recognized motorized cycle group, an ORV dealer association, and an at-large ORV trail user.

(2) Two members of the review board shall be appointed by the governor, 2 members shall be appointed by the speaker of the house of representatives, and 2 members shall be appointed by the senate majority leader.

(3) The review board shall submit to the standing committees of the senate and the house of representatives that address legislation pertaining to the environment and natural resources of this state a report that contains a full review of the operation of the system developed by the department and approved by the legislature pursuant to section 16d. The report shall include a summary of the effectiveness of the system, recommendations for changes to the system, and other information that the legislative committees described in this subsection may request at the time of the establishment of the review board.

(4) The department shall provide the review board with both of the following:

(a) The department's recommendations regarding changes to the system that the department concludes would improve the system.

(b) The department's evaluation of the effectiveness of the system.

(5) Within 6 months after the establishment of the review board, the review board shall issue its report as provided in this section and the review board shall be disbanded.

Sec. 17a. (1) A person who is under 16 years of age, before operating an ATV or ORV, shall complete an ORV safety education course approved by the department of education. This course may include a written examination and a driving test designed to test the competency of the applicant. Upon successful completion of this safety education course, a person shall receive an ORV safety certificate.

(2) A safety education course conducted by a college or university, an intermediate school district, a local school district, a law enforcement agency, other governmental agency located in this state, or department of education approved nonprofit service organization shall be conducted in compliance with this section. An agency or a school conducting a course under this subsection may apply to the department for a grant from the fund for costs associated with conducting a course.

(3) Except for a course conducted by a private business enterprise as provided by subsection (4), an applicant for a safety education course under this section shall pay not more than a \$25.00 course fee or in the case of a university or community college a fee not more than the cost of 1 credit hour of instruction. The course fees shall only be used for funding the administration and implementation of the course.

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

(5) The superintendent of public instruction shall designate a person to be the state coordinator of the ATV and ORV safety education program. A person designated under this subsection shall have successfully completed ATV and ORV safety courses.

(6) The superintendent of public instruction shall designate a person who has successfully completed ATV and ORV safety courses to perform annual inspections of course sites.

Sec. 18. (1) A county, city, village, or township may pass an ordinance establishing access routes along streets and highways under its jurisdiction, if those access routes do not involve state or federal highways, and if they meet the requirements of the plan developed pursuant to section 16. If necessary, consent of a state or federal land management agency shall be obtained for the location of the route.

(2) A city, village, or township may pass an ordinance allowing a permanently disabled person to operate an ORV in that city, village, or township.

Sec. 20. A person shall not operate an ORV:

(a) At a rate of speed greater than is reasonable and proper, or in a careless manner having due regard for conditions then existing.

(b) Unless the person and any passenger in or on the vehicle is wearing on his or her head a crash helmet and protective eyewear approved by the United States department of transportation. This subdivision shall not apply if the vehicle is equipped with a roof that meets or exceeds standards for a crash helmet and the operator and each passenger is wearing a properly adjusted and fastened safety belt.

(c) During the hours of 1/2 hour after sunset to 1/2 hour before sunrise without displaying a lighted headlight and lighted taillight.

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

(e) In a state game area or state park or recreation area, except on roads, trails, or areas designated for this purpose; on state owned lands under the control of the department other than game areas, state parks, or recreational areas where the operation would be in violation of rules promulgated by the commission; in a forest nursery or planting area; on public lands posted or reasonably identifiable as an area of forest reproduction, and when growing stock may be damaged; in a dedicated natural area of the department; or in any area in such a manner as to create an erosive condition, or to injure, damage, or destroy trees or growing crops. However, the department may permit an owner and guests of the owner to use an ORV within the boundaries of a state forest in order to access the owner's property.

(f) On the frozen surface of public waters within 100 feet of a person not in or upon a vehicle, or within 100 feet of a fishing shanty or shelter or an area that is cleared of snow for skating purposes, except at the minimum speed required to maintain controlled forward movement of the vehicle, or as may be authorized by permit in special events.

(g) Unless the vehicle is equipped with a spark arrester type United States forest service approved muffler, in good working order and in constant operation. Exhaust noise emission shall not exceed 86 Db(A) or 82 Db(A) on a vehicle manufactured after January 1, 1986, when the vehicle is under full throttle, traveling in second gear, and measured 50 feet at right angles from the vehicle path with a sound level meter which meets the requirement of ANSI S1.4 1983, using procedure and ancillary equipment therein described; or 99 Db(A) or 94 Db(A) on a vehicle manufactured after January 1, 1986, or that level comparable to the current sound level



as provided for by the environmental protection agency when tested according to the provisions of the current SAE J1287, June 86 test procedure for exhaust levels of stationary motorcycles, using sound level meters and ancillary equipment therein described. A vehicle subject to this act, manufactured or assembled after December 31, 1982 and used, sold, or offered for sale in this state shall conform to the noise emission levels established by the environmental protection agency under the noise control act of 1972, Public Law 92-574, 86 Stat. 1234, except in an officially authorized special event.

(h) Within 100 feet of a dwelling at a speed greater than the minimum required to maintain controlled forward movement of the vehicle, except on property owned or under the operator's control or on which the operator is an invited guest, or on a roadway, forest road, or forest trail maintained by or under the jurisdiction of the department, or on an ORV access route as authorized by local ordinance.

(i) In or upon the lands of another without the written consent of the owner, owner's agent or lessee, when required by the recreational trespass act, Act No. 323 of the Public Acts of 1976, as amended, being sections 317.171 to 317.181 of the Michigan Compiled Laws. The operator of the vehicle is liable for damage to private property, including, but not limited to, damage to trees, shrubs, growing crops, or injury to living creatures or damage caused through vehicle operation in a manner so as to create erosive or other ecological damage to private property. The owner of the private property may recover from the person responsible nominal damages of not less than the amount of damage or injury. Failure to post private property or fence or otherwise enclose in a manner to exclude intruders or of the private property owner or other authorized person to personally communicate against trespass shall not imply consent to ORV use.

(j) In an area on which public hunting is permitted during the season open to the taking of deer, elk, or bear, from 7 a.m. to 11 a.m. and from 2 p.m. to 5 p.m., except during an emergency or for law enforcement purposes, to go to and from a permanent residence or a hunting camp otherwise inaccessible by a conventional wheeled vehicle, to remove a deer, elk, or bear from public land which has been taken pursuant to a valid license; or except for the conduct of necessary work functions involving land and timber survey, communication and transmission line patrol, and timber harvest operations; or on property owned or under control of the operator or on which the operator is an invited guest. A hunter removing game pursuant to this subsection shall be allowed to leave the designated trail or forest road only to retrieve the game and shall not exceed 5 miles per hour. A vehicle registered under the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, as amended, being sections 257.1 to 257.923 of the Michigan Compiled Laws, is exempt from this subdivision while operating on a public highway or public or private road capable of sustaining automobile traffic. A person holding a valid permit to hunt from a standing vehicle issued pursuant to section 14(1) of the wildlife conservation act, Act No. 256 of the Public Acts of 1988, being section 300.264 of the Michigan Compiled Laws, or a handicapper using an ORV to access public lands for purposes of hunting or fishing through use of a designated trail or forest road, is exempt from this subdivision.

(k) While transporting on the vehicle a bow unless unstrung or encased, or a firearm unless unloaded and securely encased, or equipped with and made inoperative by a manufactured keylocked trigger housing mechanism.

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

(m) Within 100 feet of a slide, ski, or skating area, unless the vehicle is being used for the purpose of servicing the area.

(n) On an operating or nonabandoned railroad or railroad right-of-way, or public utility right-of-way, other than for the purpose of crossing at a clearly established site intended for vehicular traffic, except railroad, public utility, or law enforcement personnel while in performance of their duties, and except if the right-of-way is designated as established in section 16d.

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

(p) To hunt, pursue, worry, kill, or attempt to hunt, pursue, worry, or kill a bird or animal, wild or domesticated.

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

(r) In a manner contrary to operating regulations on public lands.

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

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

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

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

(u) On adjacent private land, in an area zoned residential, within 300 feet of a dwelling at a speed greater than the minimum required to maintain controlled forward movement of the vehicle except on a roadway, forest road, or forest trail maintained by or under the jurisdiction of the department, or on an ORV access route as authorized by local ordinance.

Sec. 24. (1) Except as otherwise provided in this act, a person who violates a provision of this act is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$50.00 or more than \$1,000.00, or both, for each violation of the act.

(2) On and after the date the civil procedures act is enacted into law, a person who violates sections 2c, 4, 5, 6, 11, 12, 17a, and 20(b), (c), (d), (f), (g), (h), (j), (l), and (m) is responsible for a civil violation and subject to a civil penalty of not more than \$500.00.

(3) A person shall not remove, deface, or destroy a sign or marker placed by the department indicating the boundaries of an ORV trail or area or that marks a route.

(4) In addition to the penalties otherwise provided under this act, a court of competent jurisdiction may order a person to restore, as nearly as possible, any land, water, stream bank, streambed, or other natural or geographic formation damaged by the violation of this act to the condition it was in before the violation occurred.

(5) The department or any other peace officer may impound the ORV of a person who violates a provision of this act that is punishable as a misdemeanor or who causes damage to the particular area in which the ORV was used in the commission of the violation.

(6) Upon conviction of a person for violation of a provision of this act that is punishable as a misdemeanor or any other provision of this act that results in damage to the particular area in which the ORV was used, a court of competent jurisdiction may order an ORV and any personal property on the ORV seized as a result of the violation returned to the owner or upon recommendation of the local prosecuting attorney turned over to the director of the department. If the ORV and any other property is turned over to the director of the department, they shall be disposed of in the manner provided for condemnation of property in Act No. 192 of the Public Acts of 1929, being sections 300.11 to 300.18 of the Michigan Compiled Laws. The proceeds realized by the director under this subsection shall first be used to restore areas damaged by ORV use with the balance to be deposited in the ORV trail improvement fund.

Sec. 24a. A person shall not have an ORV condemned pursuant to section 24 if the trespass is the result of an emergency situation.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved .....

.....  
Governor.