

HOUSE BILL No. 4010

January 31, 1991, Introduced by Reps. Alley, Bartnik, Power, Sikkema, Brown, DeBeaussaert and Hickner and referred to the Committee on Conservation, Recreation and Environment.

A bill to amend the title and sections 1, 4, 4a, 4b, 4c, 4d, 4e, 4f, 6a, 16, 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, 4f, and 6a as added by Act No. 71 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, 257.1604f, 257.1606a, 257.1616, 257.1618, 257.1620, and 257.1624 of the Michigan Compiled Laws; and to add sections 6c, 16b, 16c, and 16d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 1, 4, 4a, 4b, 4c, 4d, 4e,
2 4f, 6a, 16, 18, 20, and 24 of Act No. 319 of the Public Acts of
3 1975, sections 1, 4, and 20 as amended and sections 4a, 4b, 4c,
4 4d, 4e, 4f, and 6a as added by Act No. 71 of the Public Acts of
5 1990, section 18 as amended by Act No. 112 of the Public Acts of
6 1986, and section 24 as amended by Act No. 241 of the Public Acts
7 of 1989, being sections 257.1601, 257.1604, 257.1604a, 257.1604b,
8 257.1604c, 257.1604d, 257.1604e, 257.1604f, 257.1606a, 257.1616,
9 257.1618, 257.1620, and 257.1624 of the Michigan Compiled Laws,
10 are amended and sections 6c, 16b, 16c, and 16d are added to read
11 as follows:

TITLE

12
13 An act to provide for the titling, licensure, and regulation
14 of off-road recreation vehicles; to create certain funds; TO
15 CREATE CERTAIN ADVISORY BODIES AND TO PRESCRIBE THEIR POWERS AND
16 DUTIES; to prescribe ~~the~~ powers and duties of certain officers,
17 agencies, and institutions; and to provide penalties.

18 Sec. 1. As used in this act:

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

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

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

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

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

5 (f) "Designated" means posted open for ORV use with appro-
6 priate signs by the department.

7 (g) "Forest road" means a hard surfaced road, gravel or dirt
8 road, ~~fire lane, abandoned railroad right of way, logging road,~~
9 or other ~~way~~ ROUTE capable of travel by a 2-WHEEL DRIVE 4-wheel
10 CONVENTIONAL vehicle DESIGNED FOR HIGHWAY USE, except an inter-
11 state, state, or county highway.

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

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

17 (J) "LATE MODEL ORV" MEANS AN ORV MANUFACTURED IN THE CUR-
18 RENT MODEL YEAR OR THE 5 MODEL YEARS IMMEDIATELY PRECEDING THE
19 CURRENT MODEL YEAR.

20 (K) ~~(j)~~ "Manufacturer" means a person, partnership, corpo-
21 ration, or association engaged in the production and manufacture
22 of ORVs as a regular business.

23 (L) ~~(k)~~ "Operate" means to ride in or on, and be in actual
24 physical control of, the operation of an ORV.

25 (M) ~~(l)~~ "Operator" means a person who operates, or is in
26 actual physical control of the operation of an ORV.

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

14 (O) ~~(n)~~ "Owner" means any of the following:

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

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

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

23 (P) ~~(o)~~ "Person" means an individual, partnership, corpo-
 24 ration, the state or any of its agencies or subdivisions, or a
 25 body of persons whether incorporated or not.

26 (Q) ~~(p)~~ "Public agency" means the department or a local OR
 27 FEDERAL unit of government.

1 (R) ~~(q)~~ "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 (S) "ROUTE" MEANS A FOREST ROAD OR OTHER ROAD THAT IS DESIG-
7 NATED FOR PURPOSES OF THIS ACT BY THE DEPARTMENT.

8 (T) ~~(r)~~ "Safety education fund" means the safety education
9 fund created pursuant to section 6b.

10 (U) ~~(s)~~ "Safety chief instructor" means a person who has
11 been certified by a nationally recognized ATV and ORV organi-
12 zation to certify instructors and to do on-sight evaluations of
13 instructors.

14 (V) ~~(t)~~ "Trail improvement fund" means the ORV trail
15 improvement fund created pursuant to section 6a.

16 (W) ~~(u)~~ "Visual supervision" means the direct observation
17 of the operator with the unaided or normally corrected eye, where
18 the observer is able to come to the immediate aid of the
19 operator.

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

1 (2) A manufacturer's certificate of origin shall contain ~~7~~
2 ~~in the form and together with other information required by the~~
3 ~~department of state,~~ the following information:

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

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

8 (c) The dealer's name and address.

9 (d) Certification that this transaction is the first trans-
10 fer of the new ORV in ordinary commerce.

11 (e) The transferor's signature and address.

12 (3) An assignment of a manufacturer's certificate of origin
13 shall be printed on the reverse side of the certificate. ~~in a~~
14 ~~form to be prescribed by the department of state.~~ The assignment
15 shall include the name and address of the transferee, a certifi-
16 cation that the ORV is new, and a warranty that the title at the
17 time of delivery is subject only to the secured interests set
18 forth in the assignment.

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

24 (a) The applicant's name and address.

25 ~~(b) The name and address of the previous owner.~~

1 (B) ~~-(e)-~~ A statement of any security interest or other
2 liens on the ORV, along with the name and address of any
3 lienholder.

4 (C) ~~-(d)-~~ If a lien is not outstanding, a statement of that
5 fact.

6 (D) ~~-(e)-~~ A description of the ORV, including the year,
7 make, model or series, and vehicle identification number.

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

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

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

1 titled, the application shall be accompanied by a manufacturer's
2 certificate of origin.

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

6 (4) An application filed with the department of state pursu-
7 ant to this section shall be accompanied by the fee or fees pre-
8 scribed in section 4c.

9 (5) A PERSON WHO VIOLATES THIS SECTION IS RESPONSIBLE FOR A
10 CIVIL VIOLATION.

11 Sec. 4c. (1) The department of state shall charge a fee of
12 ~~\$10.50~~ \$11.00 for processing an application for an ORV certifi-
13 cate of title or a duplicate ORV certificate of title. The
14 department of state shall charge an additional fee of \$5.00 for
15 processing an application on an expedited basis.

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

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

25 (4) If a fee is still delinquent 15 days after the depart-
26 ment of state has given notice to a person who tendered the check

1 or draft, a \$10.00 penalty shall be assessed and collected in
2 addition to the fee.

3 (5) THE REVENUE COLLECTED FROM THE FEES IMPOSED UNDER THIS
4 SECTION SHALL BE USED TO SUPPORT THE ADMINISTRATIVE COSTS OF THE
5 SECRETARY OF STATE REQUIRED BY THIS SECTION. ANNUAL REVENUE COL-
6 LECTED IN EXCESS OF THESE ADMINISTRATIVE COSTS SHALL BE CREDITED
7 TO THE ORV TRAIL IMPROVEMENT FUND CREATED IN SECTION 6A. AMOUNTS
8 APPROPRIATED FOR ADMINISTRATIVE COSTS BUT UNEXPENDED SHALL BE
9 CREDITED TO THE ORV TRAIL IMPROVEMENT FUND.

10 Sec. 4d. (1) The department of state may refuse to issue an
11 original or duplicate ORV certificate of title if any of the fol-
12 lowing occur:

13 (a) The applicant has failed to furnish all required infor-
14 mation or reasonable additional information requested by the
15 department of state.

16 (b) The required fee has not been paid.

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

19 (d) The ORV is titled under the code.

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

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

24 (2) If satisfied that the applicant is the owner of the ORV
25 and is otherwise entitled to an ORV certificate of title, the
26 department of state shall issue an ORV certificate of title in
27 the applicant's name. The certificate shall be mailed or

1 otherwise delivered to the owner of the ORV or to another person
2 specified by the owner in a separate instrument, in a form pre-
3 scribed by the department of state.

4 (3) IF THE SECRETARY OF STATE IS NOT SATISFIED AS TO THE
5 OWNERSHIP OF AN ORV WHICH IS NOT A LATE MODEL ORV AND WHOSE VALUE
6 DOES NOT EXCEED \$1,500.00, THE SECRETARY OF STATE SHALL REQUIRE
7 THE APPLICANT TO CERTIFY THAT THE APPLICANT IS THE OWNER OF THE
8 ORV AND THEREFORE ENTITLED TO MAKE APPLICATION FOR A CERTIFICATE
9 OF TITLE FOR THE ORV.

10 Sec. 4e. (1) An ORV certificate of title shall be manufac-
11 tured in a manner to prohibit as nearly as possible the ability
12 to reproduce, alter, counterfeit, forge, or duplicate the certif-
13 icate without ready detection and shall contain on its face the
14 information set forth in the application, including a notation of
15 all secured interests in the ORV; the date on which the applica-
16 tion was filed; and other information required by the department
17 of state.

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

20 (3) An ORV certificate of title shall contain, upon its
21 reverse side, a form for assignment and warranty of title by the
22 owner with space for the notation of a security interest in the
23 ORV. ~~which at the time of a transfer shall be certified and~~
24 ~~signed.~~ The reverse side of the ORV certificate of title may
25 also contain other forms that the department of state considers
26 necessary to facilitate the effective administration of this
27 act. The certificate shall bear the coat of arms of this state.

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

6 (a) If the intent of reproduction, alteration, counterfeit-
7 ing, forging, duplication, or use was to commit or aid in the
8 commission of an offense punishable by imprisonment for 1 or more
9 years, the person committing the reproduction, alteration, coun-
10 terfeiting, forging, duplication, or use is guilty of a misde-
11 meanor, punishable by imprisonment for a period equal to that
12 which could be imposed for the commission of the offense the
13 person had the intent to aid or commit. The court may also
14 assess a fine of not more than \$5,000.00 against the person.

15 (b) If the intent of the reproduction, alteration, counter-
16 feiting, forging, duplication, or use was to commit or aid in the
17 commission of an offense punishable by imprisonment for not more
18 than 1 year, the person committing the reproduction, alteration,
19 counterfeiting, forging, duplication, or use is guilty of a mis-
20 demeanor, punishable by imprisonment for not more than 1 year, or
21 a fine of not more than \$1,000.00, or both.

22 Sec. 4f. ~~-(+)~~ If an ORV certificate of title or duplicate
23 certificate of title is lost or mutilated or becomes illegible,
24 the person entitled to possession of the certificate, or the
25 legal representative or successor in interest to the titleholder
26 of record, may make application to the department of state for a
27 duplicate ORV certificate of title. Upon receipt of the

1 application, the fee prescribed in section 4c, and information
2 satisfactory to the department of state to establish entitlement
3 to the duplicate, the department of state may issue a duplicate
4 ORV certificate of title to the applicant.

5 ~~(2) Every duplicate ORV certificate of title shall contain~~
6 ~~the legend: "This is a duplicate certificate of title and may be~~
7 ~~subject to the rights of a person under the original~~
8 ~~certificate."~~

9 Sec. 6a. (1) Beginning ~~on the effective date of the amen-~~
10 ~~datory act that added this section~~ APRIL 30, 1990, the ORV trail
11 improvement fund is created in the state treasury. The fund
12 shall be administered by the department and shall be used for the
13 signing, improvement, maintenance, and construction of ORV
14 trails, ROUTES, OR AREAS, FOR THE ADMINISTRATION AND ENFORCEMENT
15 OF THIS ACT, for the leasing of land, for the acquisition of
16 easements, permits, or other agreements for the use of land for
17 ORV trails, ROUTES, OR AREAS, and for the restoration of any of
18 the natural resources of this state on public land that are dam-
19 aged due to ORV use in conjunction with the plan required by
20 section 16.

21 (2) Beginning April 1, 1990, \$6.00 of the revenue from each
22 fee collected under section 6 shall be deposited in the fund.
23 Beginning April 1, 1993, all of the revenue from each fee col-
24 lected under section 6 shall be deposited in the fund.

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

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

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

7 (6) No money in the ORV trail improvement fund may be
8 expended prior to April 1, 1991.

9 SEC. 6C. (1) NOT LESS THAN 40% OF THE REVENUE IN THE ORV
10 TRAIL IMPROVEMENT FUND IN ANY YEAR SHALL BE DISTRIBUTED EACH YEAR
11 IN THE FORM OF GRANTS FOR THE PURPOSE OF PLANNING, IMPROVING,
12 CONSTRUCTING, SIGNING, AND MAINTAINING ORV TRAILS, AREAS, AND
13 ROUTES AND ACCESS TO THOSE TRAILS, AREAS, AND ROUTES, THE LEASING
14 OF LAND, THE ACQUISITION OF EASEMENTS, PERMITS, OR OTHER AGREE-
15 MENTS FOR THE USE OF LAND FOR ORV TRAILS, AREAS, AND ROUTES, AND
16 THE RESTORATION OF DAMAGE TO NATURAL RESOURCES ON PUBLIC LAND
17 THAT IS CAUSED BY ORV USE, TO PUBLIC AGENCIES AND NONPROFIT
18 INCORPORATED CLUBS AND ORGANIZATIONS.

19 (2) AN APPLICATION BY A PUBLIC AGENCY OR A NONPROFIT INCOR-
20 PORATED CLUB OR ORGANIZATION SHALL INCLUDE A PLAN FOR RESTORATION
21 OF ANY OF THE NATURAL RESOURCES OF THIS STATE ON PUBLIC LAND THAT
22 ARE DAMAGED DUE TO ORV USE. THE PUBLIC AGENCIES OR NONPROFIT
23 INCORPORATED CLUBS OR ORGANIZATIONS SHALL INDICATE ON THEIR
24 APPLICATION THAT THEIR USE OF GRANT MONEY IS CONSISTENT WITH, AND
25 MEETS THE REQUIREMENTS OF, THE PLAN DEVELOPED BY THE DEPARTMENT
26 PURSUANT TO SECTION 16, AND THE TRAIL, ROUTE, OR AREA IS
27 AVAILABLE TO THE PUBLIC. THE DEPARTMENT SHALL NOT APPROVE A

1 GRANT UNLESS THE APPLICATION MEETS THE REQUIREMENTS OF THE PLAN.
2 THE DEPARTMENT SHALL MAKE APPLICATION FORMS AVAILABLE AND CON-
3 sider GRANT REQUESTS ON A YEARLY BASIS IN CONSULTATION WITH THE
4 ORV TRAILS ADVISORY COMMITTEE CREATED IN SECTION 16B.

5 (3) A GRANT SHALL NOT BE MADE FOR A TRAIL, ROUTE, OR AREA
6 UNLESS THE TRAIL, ROUTE, OR AREA IS AVAILABLE FOR ORV USE AND IS
7 APPROVED BY THE DEPARTMENT. A GRANT FOR THE COST OF LEASING OF
8 LAND AND THE ACQUISITION OF EASEMENTS, PERMITS, OR OTHER AGREE-
9 MENTS MAY EQUAL 100% OF INCURRED EXPENSE. SPECIFICATIONS SHALL
10 BE PRESCRIBED BY THE DEPARTMENT.

11 (4) NOT LESS THAN 30% OF THE REVENUE IN THE FUND IN ANY YEAR
12 SHALL BE USED EACH YEAR FOR ENFORCEMENT OF THIS ACT. OF THIS
13 AMOUNT AVAILABLE FOR ENFORCEMENT, THE DEPARTMENT SHALL MAKE
14 AVAILABLE FUNDS FOR DISTRIBUTION IN THE FORM OF GRANTS BY THE
15 DEPARTMENT TO THE COUNTY SHERIFFS' DEPARTMENTS IN THE FOLLOWING
16 PERCENTAGE AMOUNTS: 60% OF THE FUNDS AVAILABLE FOR THE FIRST
17 YEAR OF OPERATION OF THE FUND; 50% OF THE FUNDS AVAILABLE IN THE
18 SECOND YEAR; AND 40% OF THE FUNDS AVAILABLE IN THE THIRD YEAR AND
19 EACH YEAR THEREAFTER. THE BALANCE OF THE FUNDS AVAILABLE SHALL
20 BE USED BY THE DEPARTMENT. IN MAKING GRANTS AVAILABLE FOR DIS-
21 TRIBUTION UNDER THIS SUBSECTION, THE DEPARTMENT SHALL CONSIDER
22 THE FOLLOWING FACTORS:

23 (A) THE NUMBER OF MILES OF ORV TRAILS, ROUTES, OR AREAS
24 WITHIN THE COUNTY.

25 (B) THE NUMBER OF SHERIFF'S DEPARTMENT EMPLOYEES AVAILABLE
26 FOR ENFORCEMENT OF THIS ACT.

1 (C) THE ESTIMATED NUMBER OF ORVS WITHIN THE COUNTY AND THAT
2 ARE BROUGHT INTO THE COUNTY FOR ORV USE.

3 (D) THE ESTIMATED NUMBER OF DAYS THAT ORVS MAY BE USED
4 WITHIN THAT COUNTY.

5 (E) ANY OTHER FACTORS CONSIDERED APPROPRIATE BY THE
6 DEPARTMENT.

7 THE DEPARTMENT SHALL REQUIRE A COUNTY SHERIFF RECEIVING A GRANT
8 UNDER THIS SUBSECTION TO MAINTAIN RECORDS AND SUBMIT AN ANNUAL
9 REPORT TO VERIFY EXPENDITURE OF GRANT MONEY RECEIVED.

10 (5) NOT MORE THAN 5% OF THE REVENUE IN THE FUND IN ANY YEAR
11 SHALL BE USED FOR ADMINISTRATION OF THIS ACT.

12 (6) THE REMAINDER OF THE REVENUE IN THE FUND IN ANY GIVEN
13 YEAR MAY BE USED FOR THE PURPOSES DESCRIBED IN SUBSECTIONS (1)
14 AND (4), EXCEPT THAT IN THE FIRST YEAR OF OPERATION OF THE FUND,
15 THE REMAINDER SHALL BE USED AS PRESCRIBED IN SUBSECTION (4). IF
16 THE REMAINDER OF THE FUND IS USED FOR THE PURPOSES DESCRIBED IN
17 SUBSECTION (4), IT SHALL BE ALLOCATED AS PROVIDED IN SUBSECTION
18 (4).

19 (7) GRANTS UNDER THIS SECTION SHALL REMAIN AVAILABLE UNTIL
20 EXPENDED ONCE A CONTRACT OR COMMITMENT HAS BEEN ENTERED INTO
21 UNDER THIS SECTION. A CONTRACT SHALL BE FOR A PERIOD OF NOT MORE
22 THAN 2 YEARS. A GRANT NOT EXPENDED WITHIN THE CONTRACT PERIOD
23 MAY BE RENEWED BY THE DEPARTMENT BY ENTERING INTO A NEW CONTRACT.

24 Sec. 16. (1) The department ~~of natural resources shall,~~
25 ~~within 18 months after the effective date of this act~~ SHALL, BY
26 OCTOBER 1, 1991, develop a comprehensive plan for the management
27 of ORV use of areas, ~~forest roads, and forest~~ ROUTES, AND

1 trails maintained by or under the jurisdiction of the department
 2 ~~of natural resources~~ OR A LOCAL UNIT OF GOVERNMENT PURSUANT TO
 3 SECTION 18. The plan shall, as a minimum, set forth the follow-
 4 ing methods and timetable:

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

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

10 (c) The designation ~~, by appropriate means,~~ of areas,
 11 forest roads, and forest trails for ~~unrestricted or restricted~~
 12 ORV use INCLUDING USE BY HANDICAPPERS. ~~, or as closed to ORV~~
 13 ~~use. Methods of designation are not limited to but may include~~
 14 ~~posting, the issuance of maps, or fencing.~~

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

20 (E) SPECIFICATIONS FOR TRAILS AND AREAS.

21 (2) ~~Upon the effective date of this act and until the des-~~
 22 ~~ignation required by subsection (1)(c) is complete, the commis-~~
 23 ~~sion may promulgate rules to close an area, forest road, or~~
 24 ~~forest trail to ORV use to prevent impairment to wildlife or~~
 25 ~~destruction of natural resources or unreasonable conflict with~~
 26 ~~other recreational use of public lands. The department of~~
 27 ~~natural resources, acting on its own initiative or as a result of~~

~~1 information received from interested individuals or~~
~~2 organizations, shall investigate and prepare recommendations to~~
~~3 the commission in regard to closure of the areas, forest roads,~~
~~4 or forest trails.~~ THE PLAN SHALL BE REVISED EVERY 2 YEARS. ANY
5 SUBSEQUENT REVISIONS TO THE PLAN SHALL BE SUBMITTED FOR APPROVAL
6 TO THE HOUSE AND SENATE COMMITTEES THAT CONSIDER NATURAL
7 RESOURCES MATTERS AND THE CHAIRPERSONS OF THOSE COMMITTEES.

8 (3) The plan ~~developed under subsection (1) and revisions~~
9 ~~thereto and rules promulgated to implement the plan and revi-~~
10 ~~sions, and rules promulgated under subsection (2) shall be~~
11 ~~subject to Act No. 306 of the Public Acts of 1969, as amended~~
12 MAY DESIGNATE WHERE BICYCLISTS, HIKERS, EQUESTRIANS, AND OTHER
13 NONCONFLICTING RECREATION TRAIL USERS MAY USE ORV TRAILS OR
14 AREAS.

15 (4) WITHIN 1 YEAR AFTER THE EFFECTIVE DATE OF THE AMENDATORY
16 ACT THAT ADDED THIS SUBSECTION, THE DEPARTMENT SHALL DESIGNATE AN
17 APPROPRIATE AREA IN THE NORTHERN LOWER PENINSULA AND AN APPROPRI-
18 ATE AREA IN SOUTHEAST MICHIGAN AS A SCRAMBLE AREA.

19 SEC. 16B. THE ORV TRAILS ADVISORY COMMITTEE IS CREATED
20 WITHIN THE DEPARTMENT WHICH SHALL ASSIST THE DEPARTMENT IN DEVEL-
21 OPING CRITERIA FOR GRANTS, NOMINATE FOREST ROADS TO BE INCLUDED
22 AS ORV ROUTES, NOMINATE FOREST TRAILS, ASSIST THE DEPARTMENT IN
23 PROMULGATING RULES, AND ASSIST THE DEPARTMENT IN DEVELOPING THE
24 PLAN REQUIRED BY SECTION 16. THE ADVISORY COMMITTEE SHALL ADVISE
25 THE DEPARTMENT ON RECOMMENDATIONS MADE BY ORV USERS OF FOREST
26 TRAILS, ROADS, AND AREAS THAT SHOULD BE DESIGNATED FOR ORV USE.
27 THE ADVISORY COMMITTEE SHALL CONSIST OF 6 MEMBERS APPOINTED BY

1 THE DIRECTOR OF THE DEPARTMENT BY APRIL 1, 1991. THREE OF THE
2 MEMBERS SHALL REPRESENT ORV TRAIL USERS AND DEALERS. TWO OF THE
3 MEMBERS SHALL REPRESENT NATURAL RESOURCES, CONSERVATION, OR ENVI-
4 RONMENTAL GROUPS. ONE MEMBER SHALL REPRESENT LAW ENFORCEMENT.
5 MEMBERS SHALL BE APPOINTED FOR TERMS OF 3 YEARS EXCEPT THAT OF
6 THE MEMBERS FIRST APPOINTED, 1 MEMBER FROM EACH GROUP AND THE
7 MEMBER REPRESENTING LAW ENFORCEMENT SHALL BE APPOINTED FOR 3
8 YEARS AND THE BALANCE OF THE MEMBERS SHALL BE APPOINTED FOR 2
9 YEARS. THE COMMITTEE SHALL MEET AT LEAST ONCE EACH YEAR.

10 SEC. 16C. (1) SECTIONS 6A, 6C, 16, 16B, AND 16D SHALL NOT
11 APPLY TO THE UPPER PENINSULA OF THIS STATE.

12 (2) THE UPPER PENINSULA TASK FORCE ON ORV USAGE IS CREATED
13 WITHIN THE DEPARTMENT. WITHIN 60 DAYS AFTER THE EFFECTIVE DATE
14 OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION, THE DIRECTOR OF
15 THE DEPARTMENT SHALL APPOINT 9 MEMBERS TO CONSTITUTE THE TASK
16 FORCE. THE TASK FORCE SHALL MEET AT LEAST TWICE EACH YEAR DURING
17 1991, 1992, AND 1993.

18 (3) THE TASK FORCE SHALL EVALUATE THE EXTENT OF ORV USAGE IN
19 THE UPPER PENINSULA AND MONITOR ANY DAMAGE CAUSED DUE TO ORV
20 USAGE. THE TASK FORCE SHALL SUBMIT A REPORT WITH ITS RECOMMENDA-
21 TIONS TO THE DIRECTOR OF THE DEPARTMENT AND THE COMMISSION BY
22 JANUARY 1, 1994.

23 SEC. 16D. (1) THE DEPARTMENT SHALL DEVELOP A COMPREHENSIVE
24 SYSTEM FOR THE USE OF ORVS ON ROUTES, TRAILS, AND AREAS IN STATE
25 FORESTS WHICH SHALL BE SUBMITTED TO THE LEGISLATURE FOR REVIEW
26 BEFORE IMPLEMENTATION. THE LEGISLATURE MAY REJECT THE SYSTEM
27 WITHIN 60 DAYS AFTER THE SYSTEM IS SUBMITTED TO THE LEGISLATURE

1 BY THE DEPARTMENT BY CONCURRENT RESOLUTION ADOPTED BY BOTH
2 STANDING COMMITTEES OF THE HOUSE AND SENATE THAT CONSIDER NATURAL
3 RESOURCES MATTERS AND BOTH HOUSES OF THE LEGISLATURE BY RECORDED
4 VOTE. NOTWITHSTANDING ANY PROVISIONS TO THE CONTRARY IN THIS
5 ACT, ONCE THE SYSTEM IS APPROVED UNDER THIS SECTION ALL STATE
6 OWNED LAND UNDER JURISDICTION OF THE DEPARTMENT IS CLOSED TO ORV
7 USE EXCEPT ROUTES, TRAILS, AND AREAS DESIGNATED AS PROVIDED IN
8 THIS ACT.

9 (2) IF THE DEPARTMENT SUBMITS THE SYSTEM TO THE HOUSE AND
10 SENATE COMMITTEES THAT CONSIDER NATURAL RESOURCES MATTERS AND THE
11 CHAIRPERSONS OF THOSE COMMITTEES BY JANUARY 1, 1993 AND THE COM-
12 MISSION OFFICIALLY ADOPTS AN ORDER ACCEPTING THE SYSTEM, THE
13 SYSTEM WILL GO INTO EFFECT ON MAY 1, 1993.

14 (3) BEFORE MAY 1, 1993, THE DEPARTMENT MAY IMPLEMENT THE
15 SYSTEM IF IT SUBMITS THE SYSTEM TO THE HOUSE AND SENATE COMMIT-
16 TEES THAT CONSIDER NATURAL RESOURCES MATTERS AND THE CHAIRPERSONS
17 OF THOSE COMMITTEES AND TO THE COMMISSION. THE RESPECTIVE HOUSE
18 AND SENATE COMMITTEES AND THE CHAIRPERSONS OF THOSE COMMITTEES
19 HAVE 30 DAYS IN WHICH TO FILE AN OBJECTION TO THE SYSTEM TO THE
20 COMMISSION. THE COMMISSION MAY OFFICIALLY ADOPT AN ORDER ACCEPT-
21 ING THE SYSTEM. THE ORDER SHALL BE FILED WITH THE SECRETARY OF
22 STATE AFTER APPROPRIATE NOTICE OF THE SYSTEM BECOMING EFFECTIVE
23 THROUGHOUT THE STATE.

24 (4) IN DEVELOPING THE SYSTEM, THE DEPARTMENT SHALL CONSIDER
25 THE NEEDS OF HUNTERS, SENIOR CITIZENS, AND HANDICAPPERS.

26 Sec. 18. (1) ~~—A~~ EXCEPT AS OTHERWISE PROVIDED IN THIS
27 SECTION, A county, city, village, or township ~~may~~ SHALL NOT

1 pass an ordinance regulating the operation of ORVs. ~~if the~~
2 ~~ordinance meets the requirements of this act and does not permit~~
3 ~~actions this act prohibits or prohibit actions this act permits.~~

4 (2) A county, city, village, or township may pass an ordi-
5 nance establishing access routes ~~—~~ along streets and highways
6 under its jurisdiction, if those access routes do not involve
7 state or federal highways, ~~and are limited in number to the min-~~
8 ~~imum required to serve the area~~ IF THEY MEET THE REQUIREMENTS OF
9 THE PLAN DEVELOPED PURSUANT TO SECTION 16, AND, WHERE NECESSARY,
10 CONSENT OF A STATE OR FEDERAL LAND MANAGEMENT AGENCY IS OBTAINED
11 FOR THE LOCATION OF THE ROUTE.

12 (3) A city, village, or township may pass an ordinance
13 allowing a permanently disabled person to operate an ORV in that
14 city, village, or township. ~~A county, city, village, or town-~~
15 ~~ship shall not adopt an ordinance which:~~

16 ~~(a) Imposes a license fee.~~

17 ~~(b) Specifies accessory equipment to be carried on the~~
18 ~~vehicle.~~

19 ~~(c) Requires a vehicle operator to possess a motor vehicle~~
20 ~~driver's license while operating an ORV.~~

21 ~~(d) Restricts operation of a vehicle on the frozen surface~~
22 ~~of public waters, or on lands owned by, or under the control of,~~
23 ~~the state except pursuant to section 19.~~

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

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

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

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

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

20 (e) In a state game area or state park or recreation area,
21 except on roads, trails, or areas designated for this purpose; on
22 state owned lands under the control of the department ~~of natural~~
23 ~~resources~~ other than game areas, state parks, or recreational
24 areas where the operation would be in violation of rules promul-
25 gated by the commission; in a forest nursery or planting area; on
26 public lands posted or reasonably identifiable as an area of
27 forest reproduction, and when growing stock may be damaged; in a

1 dedicated natural area of the department; ~~of natural resources,~~
2 or in any area in such a manner as to create an erosive condi-
3 tion, or to injure, damage, or destroy trees or growing crops.
4 HOWEVER, THE DEPARTMENT MAY PERMIT AN OWNER AND GUESTS OF THE
5 OWNER TO USE AN ORV WITHIN THE BOUNDARIES OF A STATE FOREST IN
6 ORDER TO ACCESS THE OWNER'S PROPERTY.

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

13 (g) Unless the vehicle is equipped with a spark arrester
14 type United States forest service approved muffler, in good work-
15 ing order and in constant operation. Exhaust noise emission
16 shall not exceed 86 Db(A) or 82 Db(A) on a vehicle manufactured
17 after January 1, 1986, when the vehicle is under full throttle,
18 traveling in second gear, and measured 50 feet at right angles
19 from the vehicle path with a sound level meter which meets the
20 requirement of ANSI S1.4 1983, using procedure and ancillary
21 equipment therein described; or 99 Db(A) or 94 Db(A) on a vehicle
22 manufactured after January 1, 1986, or that level comparable to
23 the current sound level as provided for by the environmental pro-
24 tection agency when tested according to the provisions of the
25 current SAE J1287, June 86 test procedure for exhaust levels of
26 stationary motorcycles, using sound level meters and ancillary
27 equipment therein described. A vehicle subject to this act,

1 manufactured or assembled after December 31, 1982 and used, sold,
2 or offered for sale in this state shall conform to the noise
3 emission levels established by the environmental protection
4 agency under the noise control act of 1972, Public Law 92-574, 86
5 Stat. 1234, except in an officially authorized special event.

6 (h) Within 100 feet of a dwelling at a speed greater than
7 the minimum required to maintain controlled forward movement of
8 the vehicle, except on property owned or under the operator's
9 control or on which the operator is an invited guest, or on a
10 roadway, forest road, or forest trail ~~pursuant to section 15-~~
11 MAINTAINED BY OR UNDER THE JURISDICTION OF THE DEPARTMENT, or on
12 an ORV access route as authorized by local ordinance.

13 (i) In or upon the lands of another without the written con-
14 sent of the owner, owner's agent or lessee, when required by the
15 recreational trespass act, Act No. 323 of the Public Acts of
16 1976, as amended, being sections 317.171 to 317.181 of the
17 Michigan Compiled Laws. The operator of the vehicle is liable
18 for damage to private property, including, but not limited to,
19 damage to trees, shrubs, growing crops, or injury to living crea-
20 tures or damage caused through vehicle operation in a manner so
21 as to create erosive or other ecological damage to private
22 property. The owner of the private property may recover from the
23 person responsible nominal damages of not less than the amount of
24 damage or injury. Failure to post private property or fence or
25 otherwise enclose in a manner to exclude intruders or of the pri-
26 vate property owner or other authorized person to personally
27 communicate against trespass shall not imply consent to ORV use.

1 (j) In an area on which public hunting is permitted during
2 the season open to the taking of deer with firearms, from 7 a.m.
3 to 11 a.m. and from 2 p.m. to 5 p.m., except during an emergency
4 or for law enforcement purposes, to go to and from a permanent
5 residence or a hunting camp otherwise inaccessible by a conven-
6 tional wheeled vehicle; or except for the conduct of necessary
7 work functions involving land and timber survey, communication
8 and transmission line patrol, and timber harvest operations; or
9 on property owned or under control of the operator or on which
10 the operator is an invited guest. A vehicle registered under the
11 Michigan vehicle code, Act No. 300 of the Public Acts of 1949, as
12 amended, being sections 257.1 to 257.923 of the Michigan Compiled
13 Laws, is exempt from this subdivision while operating on a public
14 highway or public or private road capable of sustaining automo-
15 bile traffic. A person holding a valid permit to hunt from a
16 standing vehicle issued pursuant to section 14(1) of the wildlife
17 conservation act, Act No. 256 of the Public Acts of 1988, being
18 section 300.264 of the Michigan Compiled Laws, OR A HANDICAPPER
19 USING AN ORV TO ACCESS PUBLIC LANDS DURING HUNTING AND FISHING
20 SEASONS, is exempt from this subdivision.

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

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

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

3 (n) On an operating or nonabandoned railroad or railroad
4 ~~right of way~~ RIGHT-OF-WAY, OR PUBLIC UTILITY RIGHT-OF-WAY,
5 other than for the purpose of crossing at a clearly established
6 site intended for vehicular traffic, except railroad, public
7 utility, or law enforcement personnel while in performance of
8 their duties, AND EXCEPT IF THE RIGHT-OF-WAY IS DESIGNATED AS
9 ESTABLISHED IN SECTION 16D.

10 (o) In or upon the waters of any stream, river, bog, wet-
11 land, swamp, marsh, or quagmire except over a bridge, culvert, or
12 similar structure.

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

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

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

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

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

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

1 (t) While transporting any passenger in or upon an ORV
2 unless the manufacturing standards for the vehicle make provi-
3 sions for transporting passengers.

4 (U) ON ADJACENT PRIVATE LAND, IN AN AREA ZONED RESIDENTIAL,
5 WITHIN 300 FEET OF A DWELLING AT A SPEED GREATER THAN THE MINIMUM
6 REQUIRED TO MAINTAIN CONTROLLED FORWARD MOVEMENT OF THE VEHICLE
7 EXCEPT ON A ROADWAY, FOREST ROAD, OR FOREST TRAIL MAINTAINED BY
8 OR UNDER THE JURISDICTION OF THE DEPARTMENT, OR ON AN ORV ACCESS
9 ROUTE AS AUTHORIZED BY LOCAL ORDINANCE.

10 Sec. 24. (1) Except as otherwise provided in this act, a
11 person who violates a provision of this act is guilty of a misde-
12 meanor punishable by imprisonment for not more than 90 days or a
13 fine of not LESS THAN \$100.00 OR more than ~~\$500.00~~ \$1,000.00,
14 or both, for each violation of the act.

15 (2) A PERSON SHALL NOT REMOVE, DEFACE, OR DESTROY A SIGN OR
16 MARKER PLACED BY THE DEPARTMENT INDICATING THE BOUNDARIES OF AN
17 ORV TRAIL OR AREA OR THAT MARKS A ROUTE.

18 (3) IN ADDITION TO THE PENALTIES PROVIDED UNDER SUBSECTION
19 (1) OR SECTION 20A, 20B, 20I, OR 23, THE DEPARTMENT OR ANY OTHER
20 PEACE OFFICER MAY IMPOUND THE ORV OF A PERSON WHO VIOLATES THIS
21 ACT OR, AFTER A HEARING, A COURT OF COMPETENT JURISDICTION MAY
22 ORDER CONDEMNATION AND CONFISCATION OF THE ORV OF A PERSON AND
23 REQUIRE THE PERSON TO RESTORE, AS NEARLY AS POSSIBLE, ANY LAND,
24 WATER, STREAM BANK, STREAMBED, OR OTHER NATURAL OR GEOGRAPHIC
25 FORMATION DAMAGED BY THE VIOLATION OF THIS ACT TO THE CONDITION
26 IT WAS IN BEFORE THE VIOLATION OCCURRED, IN THE FOLLOWING CASES:

1 (A) DAMAGE TO THE PARTICULAR AREA CAUSED BY OPERATION OF THE
2 ORV IN A RECKLESS OR IMPRUDENT MANNER.

3 (B) TRESPASS INTO AREAS NOT PERMITTED FOR ORV USE.

4 (C) OPERATION OF AN ORV WHILE UNDER THE INFLUENCE OF INTOXI-
5 CATING LIQUOR OR A CONTROLLED SUBSTANCE, AS DEFINED BY
6 SECTION 7104 OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC
7 ACTS OF 1978, BEING SECTION 333.7104 OF THE MICHIGAN COMPILED
8 LAWS, OR A COMBINATION OF INTOXICATING LIQUOR AND A CONTROLLED
9 SUBSTANCE.

10 (D) FLEEING OR ELUDING A POLICE OR CONSERVATION OFFICER AS
11 PROVIDED IN SECTION 602A OF THE MICHIGAN VEHICLE CODE, ACT
12 NO. 300 OF THE PUBLIC ACTS OF 1949, BEING SECTION 257.602A OF THE
13 MICHIGAN COMPILED LAWS.