

HOUSE BILL No. 5463

January 29, 1992, Introduced by Reps. Alley and Middaugh and referred to the Committee on Conservation, Recreation and Environment.

A bill to amend sections 14 and 20 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 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,"

section 14 as amended by Act No. 241 of the Public Acts of 1989 and section 20 as amended by Act No. 17 of the Public Acts of 1991, being sections 257.1614 and 257.1620 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 14 and 20 of Act No. 319 of the Public
2 Acts of 1975, section 14 as amended by Act No. 241 of the Public
3 Acts of 1989 and section 20 as amended by Act No. 17 of the

1 Public Acts of 1991, being sections 257.1614 and 257.1620 of the
2 Michigan Compiled Laws, are amended to read as follows:

3 Sec. 14. (1) A person shall not operate an ORV that is not
4 registered under the Michigan vehicle code, Act No. 300 of the
5 Public Acts of 1949, as amended, being sections 257.1 to 257.923
6 of the Michigan Compiled Laws, upon a public highway, street, or
7 right of way of a public highway or street, except as provided in
8 section 18 or under the following conditions and circumstances:

9 (a) The operator of a vehicle may cross a public highway,
10 other than a limited access highway, at right angles, for the
11 purpose of getting from 1 area to another, if the operation can
12 be done in safety. The operator shall bring the vehicle to a
13 complete stop before proceeding across a public highway, and
14 shall yield the right of way to oncoming traffic.

15 (b) A vehicle may be operated on a street or highway for a
16 special event of limited duration, conducted according to a pre-
17 arranged schedule, only under permit from the governmental unit
18 having jurisdiction. A special event involving ORVs may be con-
19 ducted on the frozen surface of public waters only under permit
20 from the department of natural resources.

21 (c) AN OWNER OF AN ORV WHO IS HANDICAPPED MAY OPERATE AN ORV
22 ON FOREST ROADS, DESIGNATED FOREST ROUTES, DESIGNATED FOREST
23 TRAILS, AND DESIGNATED AREAS.

24 (d) AN OPERATOR OF AN ORV MAY LEAVE THE DESIGNATED FOREST
25 ROUTE OR DESIGNATED FOREST TRAIL TO RETRIEVE FROM PUBLIC LAND A
26 DEER, ELK, OR BEAR WHICH HAS BEEN LAWFULLY TAKEN AND TAGGED

1 PURSUANT TO A VALID LICENSE. THE VEHICLE SHALL NOT EXCEED A
2 SPEED OF 5 MILES PER HOUR.

3 (2) In a court action in this state where competent evidence
4 demonstrates that a vehicle that is permitted to operate on a
5 highway pursuant to Act No. 300 of the Public Acts of 1949 is in
6 a collision with an ORV on a roadway, the operator of the ORV
7 involved in the collision shall be considered prima facie
8 negligent.

9 Sec. 20. (1) A person shall not operate an ORV:

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

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

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

23 (d) Unless equipped with a braking system that may be oper-
24 ated by hand or foot, capable of producing deceleration at 14
25 feet a second on level ground at a speed of 20 miles per hour; a
26 brake light, brighter than the taillight, visible when the brake
27 is activated to the rear of the vehicle when the vehicle is

1 operated during the hours of 1/2 hour after sunset and 1/2 hour
2 before sunrise; and a throttle so designed that when the pressure
3 used to advance the throttle is removed, the engine speed will
4 immediately and automatically return to idle.

5 (e) In a state game area or state park or recreation area,
6 except on roads, trails, or areas designated for this purpose; on
7 state owned lands under the control of the department other than
8 game areas, state parks, or recreational areas where the opera-
9 tion would be in violation of rules promulgated by the commis-
10 sion; in a forest nursery or planting area; on public lands
11 posted or reasonably identifiable as an area of forest reproduc-
12 tion, and when growing stock may be damaged; in a dedicated natu-
13 ral area of the department; or in any area in such a manner as to
14 create an erosive condition, or to injure, damage, or destroy
15 trees or growing crops. However, the department may permit an
16 owner and guests of the owner to use an ORV within the boundaries
17 of a state forest in order to access the owner's property.

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

24 (g) Unless the vehicle is equipped with a spark arrester
25 type United States forest service approved muffler, in good work-
26 ing order and in constant operation. Exhaust noise emission
27 shall not exceed 86 Db(A) or 82 Db(A) on a vehicle manufactured

1 after January 1, 1986, when the vehicle is under full throttle,
2 traveling in second gear, and measured 50 feet at right angles
3 from the vehicle path with a sound level meter which meets the
4 requirement of ANSI S1.4 1983, using procedure and ancillary
5 equipment therein described; or 99 Db(A) or 94 Db(A) on a vehicle
6 manufactured after January 1, 1986, or that level comparable to
7 the current sound level as provided for by the environmental pro-
8 tection agency when tested according to the provisions of the
9 current SAE J1287, June 86 test procedure for exhaust levels of
10 stationary motorcycles, using sound level meters and ancillary
11 equipment therein described. A vehicle subject to this act, man-
12 ufactured or assembled after December 31, 1982 and used, sold, or
13 offered for sale in this state shall conform to the noise emis-
14 sion levels established by the environmental protection agency
15 under the noise control act of 1972, Public Law 92-574, 86
16 Stat. 1234, except in an officially authorized special event.

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

24 (i) In or upon the lands of another without the written con-
25 sent of the owner, owner's agent or lessee, when required by the
26 recreational trespass act, Act No. 323 of the Public Acts of
27 1976, as amended, being sections 317.171 to 317.181 of the

1 Michigan Compiled Laws. The operator of the vehicle is liable
2 for damage to private property, including, but not limited to,
3 damage to trees, shrubs, growing crops, or injury to living crea-
4 tures or damage caused through vehicle operation in a manner so
5 as to create erosive or other ecological damage to private
6 property. The owner of the private property may recover from the
7 person responsible nominal damages of not less than the amount of
8 damage or injury. Failure to post private property or fence or
9 otherwise enclose in a manner to exclude intruders or of the pri-
10 vate property owner or other authorized person to personally com-
11 municate against trespass shall not imply consent to ORV use.

12 (j) In an area on which public hunting is permitted during
13 the season open to the taking of deer ~~, elk, or bear~~ WITH
14 FIREARMS, from 7 a.m. to 11 a.m. and from 2 p.m. to 5 p.m.,
15 except during an emergency or for law enforcement purposes, to go
16 to and from a permanent residence or a hunting camp otherwise
17 inaccessible by a conventional wheeled vehicle; ~~, to remove a~~
18 ~~deer, elk, or bear from public land which has been taken pursuant~~
19 ~~to a valid license~~ or except for the conduct of necessary work
20 functions involving land and timber survey, communication and
21 transmission line patrol, and timber harvest operations; or on
22 property owned or under control of the operator or on which the
23 operator is an invited guest; ~~. A hunter removing game pursuant~~
24 ~~to this subsection shall be allowed to leave the designated trail~~
25 ~~or forest road only to retrieve the game and shall not exceed 5~~
26 ~~miles per hour.~~ OR BY A HANDICAPPER OPERATING AN ORV ON FOREST
27 ROADS, DESIGNATED FOREST ROUTES, DESIGNATED FOREST TRAILS, OR

1 DESIGNATED AREAS. A vehicle registered under the Michigan vehicle
2 code, Act No. 300 of the Public Acts of 1949, as amended, being
3 sections 257.1 to 257.923 of the Michigan Compiled Laws, is
4 exempt from this subdivision while operating on a public highway
5 or public or private road capable of sustaining automobile
6 traffic. ~~A person holding a valid permit to hunt from a stand-~~
7 ~~ing vehicle issued pursuant to section 14(1) of the wildlife con-~~
8 ~~servation act, Act No. 256 of the Public Acts of 1988, being sec-~~
9 ~~tion 300.264 of the Michigan Compiled Laws, or a handicapper~~
10 ~~using an ORV to access public lands for purposes of hunting or~~
11 ~~fishing through use of a designated trail or forest road, is~~
12 ~~exempt from this subdivision.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, A
2 HUNTER REMOVING GAME PURSUANT TO SUBSECTION (1)(J) SHALL BE
3 ALLOWED TO LEAVE A DESIGNATED TRAIL OR FOREST ROAD ONLY TO
4 RETRIEVE THE GAME AND SHALL NOT EXCEED 5 MILES PER HOUR.