



HOUSE BILL No. 5665

March 7, 1996, Introduced by Reps. Whyman, Gustafson, Lowe, Kaza, Voorhees, Cropsey, Wetters, Walberg, Horton, Green and Jaye and referred to the Committee on Conservation, Environment and Great Lakes.

A bill to amend section 81133 of Act No. 451 of the Public Acts of 1994, entitled "Natural resources and environmental protection act," as added by Act No. 58 of the Public Acts of 1995, being section 324.81133 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 81133 of Act No. 451 of the Public Acts
2 of 1994, as added by Act No. 58 of the Public Acts of 1995, being
3 section 324.81133 of the Michigan Compiled Laws, is amended to
4 read as follows:

5 Sec. 81133. A person shall not operate an ORV:

6 (a) At a rate of speed greater than is reasonable and
7 proper, or in a careless manner having due regard for conditions
8 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
3 eyewear approved by the United States department of
4 transportation. This subdivision does not apply if the vehicle
5 is equipped with a roof that meets or exceeds standards for a
6 crash helmet and the operator and each passenger is wearing a
7 properly adjusted and fastened safety belt. THIS SUBDIVISION
8 DOES NOT APPLY IF THE VEHICLE IS OPERATED ON PRIVATE PROPERTY BY
9 THE OWNER OF THE PROPERTY, A MEMBER OF THE OWNER'S FAMILY, OR
10 ANOTHER PERSON WITH THE PERMISSION OF THE OWNER.

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

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

23 (e) In a state game area or state park or recreation area,
24 except on roads, trails, or areas designated for this purpose; on
25 state owned lands under the control of the department other than
26 game areas, state parks, or recreational areas where the
27 operation would be in violation of rules promulgated by the

1 department; in a forest nursery or planting area; on public lands
2 posted or reasonably identifiable as an area of forest reproduc-
3 tion, and when growing stock may be damaged; in a dedicated natu-
4 ral area of the department; or in any area in such a manner as to
5 create an erosive condition, or to injure, damage, or destroy
6 trees or growing crops. However, the department may permit an
7 owner and guests of the owner to use an ORV within the boundaries
8 of a state forest in order to access the owner's property.

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

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

1 exhaust levels of stationary motorcycles, using sound level
2 meters and ancillary equipment therein described. A vehicle
3 subject to this part, manufactured or assembled after
4 December 31, 1972 and used, sold, or offered for sale in this
5 state, shall conform to the noise emission levels established by
6 the United States environmental protection agency under the noise
7 control act of 1972, Public Law 92-574, 86 Stat. 1234.

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

15 (i) In or upon the lands of another without the written con-
16 sent of the owner, owner's agent or lessee, when required by
17 part 731. The operator of the vehicle is liable for damage to
18 private property, including, but not limited to, damage to trees,
19 shrubs, growing crops, or injury to living creatures or damage
20 caused through vehicle operation in a manner so as to create ero-
21 sive or other ecological damage to private property. The owner
22 of the private property may recover from the person responsible
23 nominal damages of not less than the amount of damage or injury.
24 Failure to post private property or fence or otherwise enclose in
25 a manner to exclude intruders or of the private property owner or
26 other authorized person to personally communicate against
27 trespass does not imply consent to ORV use.

1 (j) In an area on which public hunting is permitted during
2 the the regular November firearm deer season from 7 a.m. to 11
3 a.m. and from 2 p.m. to 5 p.m., except during an emergency or for
4 law enforcement purposes, to go to and from a permanent residence
5 or a hunting camp otherwise inaccessible by a conventional
6 wheeled vehicle, to remove a deer, elk, or bear from public land
7 which has been taken under a valid license; or except for the
8 conduct of necessary work functions involving land and timber
9 survey, communication and transmission line patrol, and timber
10 harvest operations; or on property owned or under control of the
11 operator or on which the operator is an invited guest. A hunter
12 removing game pursuant to this subdivision shall be allowed to
13 leave the designated trail or forest road only to retrieve the
14 game and shall not exceed 5 miles per hour. A vehicle registered
15 under the code is exempt from this subdivision while operating on
16 a public highway or public or private road capable of sustaining
17 automobile traffic. A person holding a valid permit to hunt from
18 a standing vehicle issued pursuant to part 401, or a handicapper
19 using an ORV to access public lands for purposes of hunting or
20 fishing through use of a designated trail or forest road, is
21 exempt from this subdivision.

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

26 (l) On or across a cemetery or burial ground, or land used
27 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, or public utility right-of-way, other than for the
5 purpose of crossing at a clearly established site intended for
6 vehicular traffic, except railroad, public utility, or law
7 enforcement personnel while in performance of their duties, and
8 except if the right-of-way is designated as established in sec-
9 tion 81127.

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.