

HOUSE BILL No. 4492

April 1, 2003, Introduced by Reps. Sheltroun, Lipsey, Condino, Accavitti, Law, Sak, Brown, Dennis, Elkins, Ehardt, Shackleton, Murphy, O'Neil and Gleason and referred to the Committee on Conservation and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 81133 (MCL 324.81133), as amended by 1998 PA
86.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 81133. A person shall not operate an ORV:
- 2 (a) At a rate of speed greater than is reasonable and proper,
- 3 or in a careless manner having due regard for conditions then
- 4 existing.
- 5 (b) Unless the person and any passenger in or on the vehicle
- 6 is wearing on his or her head a crash helmet and protective
- 7 eyewear approved by the United States department of
- 8 transportation. This subdivision does not apply if the vehicle
- 9 is equipped with a roof that meets or exceeds standards for a
- 10 crash helmet and the operator and each passenger is wearing a

1 properly adjusted and fastened safety belt.

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

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

14 (e) In a state game area or state park or recreation area,
15 except on roads, trails, or areas designated for this purpose; on
16 state owned lands under the control of the department other than
17 game areas, state parks, or recreational areas where the
18 operation would be in violation of rules promulgated by the
19 department; in a forest nursery or planting area; on public lands
20 posted or reasonably identifiable as an area of forest
21 reproduction, and when growing stock may be damaged; in a
22 dedicated natural area of the department; or in any area in such
23 a manner as to create an erosive condition, or to injure, damage,
24 or destroy trees or growing crops. However, the department may
25 permit an owner and guests of the owner to use an ORV within the
26 boundaries of a state forest in order to access the owner's
27 property. **A person 60 years of age or over or a person with a**

1 disability may operate an ORV on a nondesignated trail, route, or
2 area for the sole purpose of accessing a designated trail, route,
3 or area. As used in this subdivision, "person with a disability"
4 means a person described in section 103 of the persons with
5 disabilities civil rights act, 1976 PA 220, MCL 37.1103.

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

12 (g) Unless the vehicle is equipped with a spark arrester type
13 United States forest service approved muffler, in good working
14 order and in constant operation. Exhaust noise emission shall
15 not exceed 86 Db(A) or 82 Db(A) on a vehicle manufactured after
16 January 1, 1986, when the vehicle is under full throttle,
17 traveling in second gear, and measured 50 feet at right angles
18 from the vehicle path with a sound level meter which meets the
19 requirement of ANSI S1.4 1983, using procedure and ancillary
20 equipment therein described; or 99 Db(A) or 94 Db(A) on a vehicle
21 manufactured after January 1, 1986, or that level comparable to
22 the current sound level as provided for by the United States
23 environmental protection agency when tested according to the
24 provisions of the current SAE J1287, ~~June 86~~ **July 98** test
25 procedure for exhaust levels of stationary motorcycles, using
26 sound level meters and ancillary equipment therein described. A
27 vehicle subject to this part, manufactured or assembled after

1 December 31, 1972 and used, sold, or offered for sale in this
2 state, shall conform to the noise emission levels established by
3 the United States environmental protection agency under the noise
4 control act of 1972, Public Law 92-574, 86 Stat. 1234.

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

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

25 (j) In an area on which public hunting is permitted during
26 the regular November firearm deer season from 7 a.m. to 11
27 a.m. and from 2 p.m. to 5 p.m., except during an emergency or for

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

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

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

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

27 (n) On an operating or nonabandoned railroad or railroad

1 right-of-way, or public utility right-of-way, other than for the
2 purpose of crossing at a clearly established site intended for
3 vehicular traffic, except railroad, public utility, or law
4 enforcement personnel while in performance of their duties, and
5 except if the right-of-way is designated as established in
6 section 81127.

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

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

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

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

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

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

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

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

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