

# HOUSE BILL No. 5343

October 20, 2005, Introduced by Reps. Hildenbrand, Elsenheimer, Stakoe, Casperson, Baxter, Nitz and Walker and referred to the Committee on Conservation, Forestry, and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 81101 (MCL 324.81101), as amended by 2003 PA 111, and by adding section 81101a; and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 81101. As used in this part:

2           (a) "ATV" means a ~~3- or 4-wheeled~~ **3-WHEEL, 4-WHEEL, OR 6-**  
 3 **WHEEL** vehicle designed for off-road use that has low-pressure  
 4 tires, has **A BENCH SEAT OR** a seat designed to be straddled by the  
 5 rider, and is powered by a 50cc to ~~500cc~~ **900CC** gasoline engine or  
 6 an engine of comparable size using other fuels.

7           (b) "Code" means the Michigan vehicle code, 1949 PA 300, MCL  
 8 257.1 to 257.923.

1 (c) "Dealer" means a person engaged in the sale, lease, or  
2 rental of an ORV as a regular business or, for purposes of selling  
3 licenses under section 81116, any other person authorized by the  
4 department to sell licenses or permits, or both, under this act.

5 (d) "Designated", unless the context implies otherwise, means  
6 posted open for ORV use with appropriate signs by the department.

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

11 (f) "Forest trail" means a designated path or way capable of  
12 travel only by a vehicle ~~less than 50 inches~~ **60 INCHES OR LESS** in  
13 width.

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

17 (h) "Highly restricted personal information" means an  
18 individual's photograph or image, social security number, digitized  
19 signature, and medical and disability information.

20 (i) "Late model ORV" means an ORV manufactured in the current  
21 model year or the 5 model years immediately preceding the current  
22 model year.

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

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

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

3           (m) "ORV" or "vehicle" means a motor driven off-road  
4 recreation vehicle capable of cross-country travel without benefit  
5 of a road or trail, on or immediately over land, snow, ice, marsh,  
6 swampland, or other natural terrain. ORV or vehicle includes, but  
7 is not limited to, a multitrack or multiwheel drive vehicle, an  
8 ATV, a motorcycle or related 2-wheel, 3-wheel, ~~or~~ 4-wheel, **OR 6-**  
9 **WHEEL** vehicle, an amphibious machine, a ground effect air cushion  
10 vehicle, or other means of transportation deriving motive power  
11 from a source other than muscle or wind. ORV or vehicle does not  
12 include a registered snowmobile, a farm vehicle being used for  
13 farming, a vehicle used for military, fire, emergency, or law  
14 enforcement purposes, a vehicle owned and operated by a utility  
15 company or an oil or gas company when performing maintenance on its  
16 facilities or on property over which it has an easement, a  
17 construction or logging vehicle used in performance of its common  
18 function, or a registered aircraft.

19           (n) "Owner" means any of the following:

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

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

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

1           (o) "Person with disabilities" means a person who has 1 or  
2 more of the following physical characteristics:

3           (i) Blindness.

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

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

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

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

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

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

21          (p) "Personal information" means information that identifies  
22 an individual, including an individual's driver identification  
23 number, name, address not including zip code, and telephone number,  
24 but does not include information on ORV operation or equipment-  
25 related violations or civil infractions, operator or vehicle  
26 registration status, accidents, or other behaviorally-related  
27 information.

1 (q) "Public agency" means the department or **AN AGENCY OF** a  
2 local ~~or federal~~ unit of government **OR OF THE FEDERAL GOVERNMENT**.

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

7 (s) "Route" means a forest road or other road that is  
8 designated for purposes of this part by the department.

9 (t) "Safety education fund" means the safety education fund  
10 created under section 81118.

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

14 (v) "Trail improvement fund" means the ORV trail improvement  
15 fund created ~~pursuant to~~ **UNDER** section 81117.

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

19 **SEC. 81101A. AS USED IN THIS PART:**

20 (A) **"ATV" MEANS A 3-WHEEL, 4-WHEEL, OR 6-WHEEL VEHICLE**  
21 **DESIGNED FOR OFF-ROAD USE THAT HAS LOW-PRESSURE TIRES, HAS A BENCH**  
22 **SEAT OR A SEAT DESIGNED TO BE STRADDLED BY THE RIDER, AND IS**  
23 **POWERED BY A 50CC TO 900CC GASOLINE ENGINE OR AN ENGINE OF**  
24 **COMPARABLE SIZE USING OTHER FUELS.**

25 (B) **"CODE" MEANS THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL**  
26 **257.1 TO 257.923.**

27 (C) **"DEALER" MEANS A PERSON ENGAGED IN THE SALE, LEASE, OR**

1 RENTAL OF AN ORV AS A REGULAR BUSINESS OR, FOR PURPOSES OF SELLING  
2 LICENSES UNDER SECTION 81116, ANY OTHER PERSON AUTHORIZED BY THE  
3 DEPARTMENT TO SELL LICENSES OR PERMITS, OR BOTH, UNDER THIS ACT.

4 (D) "DESIGNATED", UNLESS THE CONTEXT IMPLIES OTHERWISE, MEANS  
5 POSTED OPEN FOR ORV USE WITH APPROPRIATE SIGNS BY THE DEPARTMENT.

6 (E) "FOREST ROAD" MEANS A HARD SURFACED ROAD, GRAVEL OR DIRT  
7 ROAD, OR OTHER ROUTE CAPABLE OF TRAVEL BY A 2-WHEEL DRIVE, 4-WHEEL  
8 CONVENTIONAL VEHICLE DESIGNED FOR HIGHWAY USE, EXCEPT AN  
9 INTERSTATE, STATE, OR COUNTY HIGHWAY.

10 (F) "FOREST TRAIL" MEANS A DESIGNATED PATH OR WAY CAPABLE OF  
11 TRAVEL ONLY BY A VEHICLE 60 INCHES OR LESS IN WIDTH.

12 (G) "HIGHWAY" MEANS THE ENTIRE WIDTH BETWEEN THE BOUNDARY  
13 LINES OF A WAY PUBLICLY MAINTAINED WHEN ANY PART OF THE WAY IS OPEN  
14 TO THE USE OF THE PUBLIC FOR PURPOSES OF VEHICULAR TRAVEL.

15 (H) "HIGHLY RESTRICTED PERSONAL INFORMATION" MEANS AN  
16 INDIVIDUAL'S PHOTOGRAPH OR IMAGE, SOCIAL SECURITY NUMBER, DIGITIZED  
17 SIGNATURE, AND MEDICAL AND DISABILITY INFORMATION.

18 (I) "LATE MODEL ORV" MEANS AN ORV MANUFACTURED IN THE CURRENT  
19 MODEL YEAR OR THE 5 MODEL YEARS IMMEDIATELY PRECEDING THE CURRENT  
20 MODEL YEAR.

21 (J) "MANUFACTURER" MEANS A PERSON, PARTNERSHIP, CORPORATION,  
22 OR ASSOCIATION ENGAGED IN THE PRODUCTION AND MANUFACTURE OF ORVS AS  
23 A REGULAR BUSINESS.

24 (K) "OFF-ROAD VEHICLE ACCOUNT" MEANS THE OFF-ROAD VEHICLE  
25 ACCOUNT OF THE MICHIGAN CONSERVATION AND RECREATION LEGACY FUND  
26 PROVIDED FOR IN SECTION 2015.

27 (L) "OPERATE" MEANS TO RIDE IN OR ON, AND BE IN ACTUAL PHYSICAL

1 CONTROL OF, THE OPERATION OF AN ORV.

2 (M) "OPERATOR" MEANS A PERSON WHO OPERATES OR IS IN ACTUAL  
3 PHYSICAL CONTROL OF THE OPERATION OF AN ORV.

4 (N) "ORV" OR "VEHICLE" MEANS A MOTOR DRIVEN OFF-ROAD  
5 RECREATION VEHICLE CAPABLE OF CROSS-COUNTRY TRAVEL WITHOUT BENEFIT  
6 OF A ROAD OR TRAIL, ON OR IMMEDIATELY OVER LAND, SNOW, ICE, MARSH,  
7 SWAMPLAND, OR OTHER NATURAL TERRAIN. ORV OR VEHICLE INCLUDES, BUT  
8 IS NOT LIMITED TO, A MULTITRACK OR MULTIWHEEL DRIVE VEHICLE, AN  
9 ATV, A MOTORCYCLE OR RELATED 2-WHEEL, 3-WHEEL, 4-WHEEL, OR 6-WHEEL  
10 VEHICLE, AN AMPHIBIOUS MACHINE, A GROUND EFFECT AIR CUSHION  
11 VEHICLE, OR OTHER MEANS OF TRANSPORTATION DERIVING MOTIVE POWER  
12 FROM A SOURCE OTHER THAN MUSCLE OR WIND. ORV OR VEHICLE DOES NOT  
13 INCLUDE A REGISTERED SNOWMOBILE, A FARM VEHICLE BEING USED FOR  
14 FARMING, A VEHICLE USED FOR MILITARY, FIRE, EMERGENCY, OR LAW  
15 ENFORCEMENT PURPOSES, A VEHICLE OWNED AND OPERATED BY A UTILITY  
16 COMPANY OR AN OIL OR GAS COMPANY WHEN PERFORMING MAINTENANCE ON ITS  
17 FACILITIES OR ON PROPERTY OVER WHICH IT HAS AN EASEMENT, A  
18 CONSTRUCTION OR LOGGING VEHICLE USED IN PERFORMANCE OF ITS COMMON  
19 FUNCTION, OR A REGISTERED AIRCRAFT.

20 (O) "OWNER" MEANS ANY OF THE FOLLOWING:

21 (i) A VENDEE OR LESSEE OF AN ORV THAT IS THE SUBJECT OF AN  
22 AGREEMENT FOR THE CONDITIONAL SALE OR LEASE OF THE ORV, WITH THE  
23 RIGHT OF PURCHASE UPON PERFORMANCE OF THE CONDITIONS STATED IN THE  
24 AGREEMENT, AND WITH AN IMMEDIATE RIGHT OF POSSESSION VESTED IN THE  
25 CONDITIONAL VENDEE OR LESSEE.

26 (ii) A PERSON RENTING AN ORV, OR HAVING THE EXCLUSIVE USE OF AN  
27 ORV, FOR MORE THAN 30 DAYS.

1 (iii) A PERSON WHO HOLDS LEGAL OWNERSHIP OF AN ORV.

2 (P) "PERSON WITH DISABILITIES" MEANS A PERSON WHO HAS 1 OR  
3 MORE OF THE FOLLOWING PHYSICAL CHARACTERISTICS:

4 (i) BLINDNESS.

5 (ii) INABILITY TO AMBULATE MORE THAN 200 FEET WITHOUT HAVING TO  
6 STOP AND REST DURING ANY TIME OF THE YEAR.

7 (iii) LOSS OF USE OF 1 OR BOTH LEGS OR FEET.

8 (iv) INABILITY TO AMBULATE WITHOUT THE PROLONGED USE OF A  
9 WHEELCHAIR, WALKER, CRUTCHES, BRACES, OR OTHER DEVICE REQUIRED TO  
10 AID MOBILITY.

11 (v) A LUNG DISEASE FROM WHICH THE PERSON'S EXPIRATORY VOLUME  
12 FOR 1 SECOND, WHEN MEASURED BY SPIROMETRY, IS LESS THAN 1 LITER, OR  
13 FROM WHICH THE PERSON'S ARTERIAL OXYGEN TENSION IS LESS THAN 60  
14 MM/HG OF ROOM AIR AT REST.

15 (vi) A CARDIOVASCULAR DISEASE FROM WHICH THE PERSON MEASURES  
16 BETWEEN 3 AND 4 ON THE NEW YORK HEART CLASSIFICATION SCALE, OR FROM  
17 WHICH A MARKED LIMITATION OF PHYSICAL ACTIVITY CAUSES FATIGUE,  
18 PALPITATION, DYSPNEA, OR ANGINAL PAIN.

19 (vii) OTHER DIAGNOSED DISEASE OR DISORDER INCLUDING, BUT NOT  
20 LIMITED TO, SEVERE ARTHRITIS OR A NEUROLOGICAL OR ORTHOPEDIC  
21 IMPAIRMENT THAT CREATES A SEVERE MOBILITY LIMITATION.

22 (Q) "PERSONAL INFORMATION" MEANS INFORMATION THAT IDENTIFIES  
23 AN INDIVIDUAL, INCLUDING AN INDIVIDUAL'S DRIVER IDENTIFICATION  
24 NUMBER, NAME, ADDRESS NOT INCLUDING ZIP CODE, AND TELEPHONE NUMBER,  
25 BUT DOES NOT INCLUDE INFORMATION ON ORV OPERATION OR EQUIPMENT-  
26 RELATED VIOLATIONS OR CIVIL INFRACTIONS, OPERATOR OR VEHICLE  
27 REGISTRATION STATUS, ACCIDENTS, OR OTHER BEHAVIORALLY-RELATED

1 INFORMATION.

2 (R) "PUBLIC AGENCY" MEANS THE DEPARTMENT OR AN AGENCY OF A  
3 LOCAL UNIT OF GOVERNMENT OR OF THE FEDERAL GOVERNMENT.

4 (S) "ROADWAY" MEANS THAT PORTION OF A HIGHWAY IMPROVED,  
5 DESIGNATED, OR ORDINARILY USED FOR VEHICULAR TRAVEL. IF A HIGHWAY  
6 INCLUDES 2 OR MORE SEPARATE ROADWAYS, THE TERM ROADWAY REFERS TO A  
7 ROADWAY SEPARATELY, BUT NOT TO ALL ROADWAYS COLLECTIVELY.

8 (T) "ROUTE" MEANS A FOREST ROAD OR OTHER ROAD THAT IS  
9 DESIGNATED FOR PURPOSES OF THIS PART BY THE DEPARTMENT.

10 (U) "SAFETY CHIEF INSTRUCTOR" MEANS A PERSON WHO HAS BEEN  
11 CERTIFIED BY A NATIONALLY RECOGNIZED ATV AND ORV ORGANIZATION TO  
12 CERTIFY INSTRUCTORS AND TO DO ON-SIGHT EVALUATIONS OF INSTRUCTORS.

13 (V) "VISUAL SUPERVISION" MEANS THE DIRECT OBSERVATION OF THE  
14 OPERATOR WITH THE UNAIDED OR NORMALLY CORRECTED EYE, WHERE THE  
15 OBSERVER IS ABLE TO COME TO THE IMMEDIATE AID OF THE OPERATOR.

16 Enacting section 1. Section 81101 of the natural resources and  
17 environmental protection act, 1994 PA 451, MCL 324.81101, is  
18 repealed upon House Joint Resolution Z of the 92nd Legislature  
19 becoming a part of the state constitution of 1963 as provided in  
20 section 1 of article XII of the state constitution of 1963.

21 Enacting section 2. Section 81101a of the natural resources  
22 and environmental protection act, 1994 PA 451, as added by this  
23 amendatory act, does not take effect unless House Joint Resolution  
24 Z of the 92nd Legislature becomes a part of the state constitution  
25 of 1963 as provided in section 1 of article XII of the state  
26 constitution of 1963.