

HOUSE BILL No. 6401

September 5, 2006, Introduced by Rep. Hansen 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 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 eyewear
7 approved by the United States department of transportation. ~~This~~

8 **THE REQUIREMENTS OF THIS** subdivision ~~does~~ **DO** not apply ~~if~~ **TO**

1 **EITHER OF the FOLLOWING:**

2 (i) **THE OPERATOR OR A PASSENGER IN A** vehicle **THAT** is equipped
3 with a roof that meets or exceeds standards for a crash helmet ~~and~~
4 **IF** the operator and ~~each passenger is~~ **ALL PASSENGERS ARE** wearing
5 ~~a~~ properly adjusted and fastened safety ~~belt~~ **BELTS**.

6 (ii) **THE OPERATOR OR A PASSENGER IN AN ORV THAT IS OPERATED ON**
7 **PRIVATE LAND AT A SPEED NOT GREATER THAN 25 MILES PER HOUR.**

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 operated
12 by hand or foot, capable of producing deceleration at 14 feet per
13 second on level ground at a speed of 20 miles per hour; a brake
14 light, brighter than the taillight, visible when the brake is
15 activated to the rear of the vehicle when the vehicle is operated
16 during the hours of 1/2 hour after sunset and 1/2 hour before
17 sunrise; and a throttle so designed that when the pressure used to
18 advance the throttle is removed, the engine speed will immediately
19 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 other than
23 game areas, state parks, or recreational areas where the operation
24 would be in violation of rules promulgated by the department; in a
25 forest nursery or planting area; on public lands posted or
26 reasonably identifiable as an area of forest reproduction, and when
27 growing stock may be damaged; in a dedicated natural area of the

1 department; or in any area in such a manner as to create an erosive
2 condition, or to injure, damage, or destroy trees or growing crops.
3 However, the department may permit an owner and guests of the owner
4 to use an ORV within the boundaries of a state forest in order to
5 access the owner's property.

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 fishing
8 shanty or shelter or an area that is cleared of snow for skating
9 purposes, except at the minimum speed required to maintain
10 controlled forward movement of the vehicle, or as may be authorized
11 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 not
15 exceed 86 Db(A) or 82 Db(A) on a vehicle manufactured after January
16 1, 1986, when the vehicle is under full throttle, traveling in
17 second gear, and measured 50 feet at right angles from the vehicle
18 path with a sound level meter which meets the requirement of ANSI
19 S1.4 1983, using procedure and ancillary equipment therein
20 described; or 99 Db(A) or 94 Db(A) on a vehicle manufactured after
21 January 1, 1986, or that level comparable to the current sound
22 level as provided for by the United States environmental protection
23 agency when tested according to the provisions of the current SAE
24 J1287, June 86 test procedure for exhaust levels of stationary
25 motorcycles, using sound level meters and ancillary equipment
26 therein described. A vehicle subject to this part, manufactured or
27 assembled after December 31, 1972 and used, sold, or offered for

1 sale in this state, shall conform to the noise emission levels
2 established by the United States environmental protection agency
3 under the noise control act of 1972, ~~Public Law 92-574, 86 Stat.~~
4 ~~1234~~ **42 USC 4901 TO 4918.**

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 owner
19 of the private property may recover from the person responsible
20 nominal damages of not less than the amount of damage or injury.
21 Failure to post private property or fence or otherwise enclose in a
22 manner to exclude intruders or of the private property owner or
23 other authorized person to personally communicate against trespass
24 does not imply consent to ORV use.

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

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

19 (k) While transporting on the vehicle a bow unless unstrung or
20 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
24 as 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 section
6 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 similar
9 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 debris.

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

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

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

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

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

27 (u) On adjacent private land, in an area zoned residential,

1 within 300 feet of a dwelling at a speed greater than the minimum
2 required to maintain controlled forward movement of the vehicle
3 except on a roadway, forest road, or forest trail maintained by or
4 under the jurisdiction of the department, or on an ORV access route
5 as authorized by local ordinance.