

SENATE BILL No. 97

January 26, 2005, Introduced by Senators GARCIA, GOSCHKA and VAN WOERKOM and referred to the Committee on Transportation.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 81101 and 81123 (MCL 324.81101 and 324.81123),
section 81101 as amended by 2003 PA 111 and section 81123 as
amended by 1998 PA 86.

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 vehicle designed for off-
3 road use that has low-pressure tires, has a seat designed to be
4 straddled by the rider, and is powered by a 50cc to 500cc gasoline
5 engine or an engine of comparable size using other fuels.

6 (b) "Code" means the Michigan vehicle code, 1949 PA 300, MCL
7 257.1 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~~ **57 inches OR LESS** in width.

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

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

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

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

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

27 (l) "Operator" means a person who operates or is in actual

1 physical control of the operation of an ORV.

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

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

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

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

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

27 (o) "Person with disabilities" means a person who has 1 or

1 more of the following physical characteristics:

2 (i) Blindness.

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

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

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

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

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

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

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

27 (q) "Public agency" means the department or **AN AGENCY OF** a

1 local ~~or federal~~ unit of government **OR OF THE FEDERAL GOVERNMENT**.

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

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

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

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

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

18 Sec. 81123. (1) The department shall ~~by October 1, 1991,~~
19 develop a comprehensive plan for the management of ORV use of
20 areas, routes, and trails maintained by or under the jurisdiction
21 of the department or a local unit of government pursuant to section
22 81131. The plan shall, as a minimum, set forth the following
23 methods and timetable:

24 (a) The inventorying, by appropriate means, of all areas,
25 forest roads, and forest trails used by or suitable for use by
26 ORVs.

27 (b) The identification and evaluation of the suitability of

1 areas, forest roads, and forest trails to sustain ORV use.

2 (c) The designation of areas, forest roads, and forest trails
3 for ORV use, including use by persons with disabilities.

4 (d) The development of resource management plans to maintain
5 areas, forest roads, or forest trails and to restore or reconstruct
6 damaged areas, forest roads, or forest trails. The plans shall
7 include consideration of the social, economic, and environmental
8 impact of ORV use.

9 (e) Specifications for trails and areas.

10 (2) The plan developed under subsection (1) shall be revised
11 every 2 years. The plan shall be submitted to the legislature for
12 approval. The legislature shall approve the plan without amendment
13 by concurrent resolution adopted by both standing committees of the
14 house of representatives and senate that consider natural resources
15 matters and both houses of the legislature by recorded vote. The
16 department shall submit any subsequent revisions to the plan to the
17 secretary of the senate and the clerk of the house of
18 representatives at least 20 session days before the effective date
19 of the revisions. If both standing committees of the house of
20 representatives and senate that consider natural resources matters
21 fail to reject the revisions within those 20 session days, the
22 revisions shall be considered approved.

23 (3) The plan may designate where bicyclists, hikers,
24 equestrians, and other nonconflicting recreation trail users may
25 use ORV trails or areas.

26 (4) ~~By May 7, 1992, the~~ **THE** department shall designate an
27 appropriate area in the northern Lower Peninsula and an appropriate

1 area in southeast Michigan as a scramble area.

2 (5) Copies of maps of trails shall be prepared and made
3 available by the department in sufficient quantities to accompany
4 each ORV certificate of title issued by the secretary of state and
5 to place in each county sheriff's office and each department of
6 natural resources field office.