

SUBSTITUTE FOR
HOUSE BILL NO. 4323

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 81115, 81129, 81131, 81133, and 81147 (MCL
324.81115, 324.81129, 324.81131, 324.81133, and 324.81147),
sections 81115 and 81129 as amended by 2003 PA 111, section 81131
as added by 1995 PA 58, section 81133 as amended by 1998 PA 86, and
section 81147 as amended by 2004 PA 587.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 81115. (1) A PERSON SHALL NOT OPERATE AN ORV UNDER ANY OF
2 THE FOLLOWING CONDITIONS UNLESS THE ORV IS LICENSED WITH THE
3 DEPARTMENT OR A DEALER AS PROVIDED UNDER THIS PART:

4 (A) Except as otherwise provided by law, ~~an ORV shall not be~~

1 ~~operated on or over land, snow, ice, marsh, swampland, or other~~
2 ~~natural terrain. unless licensed by the owner with the department~~
3 ~~or a dealer as provided in this part.~~

4 (B) Except as otherwise provided in this part, ~~a vehicle~~
5 ~~operating on a forest trail or in a designated area. shall be~~
6 ~~licensed under this part.~~

7 (C) ON THE MAINTAINED PORTION OF A ROAD OR STREET PURSUANT TO
8 SECTION 81131(2) OR (4).

9 (2) Licensure is not required for an ORV used exclusively in a
10 safety and training program as required in section 81129.

11 Sec. 81129. (1) Subject to subsections (2), (3), and (17), a
12 parent or legal guardian of a child less than 16 years of age shall
13 not permit the child to operate an ORV unless the child is under
14 the direct visual supervision of an adult and the child has in his
15 or her immediate possession an ORV safety certificate issued
16 pursuant to this part or a comparable ORV safety certificate issued
17 under the authority of another state or a province of Canada.

18 (2) A parent or legal guardian of a child less than 12 years
19 of age shall not permit the child to operate a 4-wheeled ATV,
20 unless the child is not less than 10 years of age and is on private
21 land owned by a parent or legal guardian of the child. This
22 subsection does not apply to the operation of an ATV used in
23 agricultural operations.

24 (3) A parent or legal guardian of a child less than 16 years
25 of age shall not permit the child to operate a 3-wheeled ATV.

26 (4) Subject to subsections (5), (6), and (17), the owner or
27 person in charge of an ORV shall not knowingly permit the vehicle

1 to be operated by a child less than 16 years of age unless the
2 child is under the direct visual supervision of an adult and the
3 child has in his or her immediate possession an ORV safety
4 certificate issued pursuant to this part or a comparable ORV safety
5 certificate issued under the authority of another state or a
6 province of Canada.

7 (5) The owner or person in charge of a 4-wheeled ATV shall not
8 knowingly permit the vehicle to be operated by a child less than 12
9 years of age, unless the child is not less than 10 years of age and
10 is on private land owned by a parent or legal guardian of the
11 child. This subsection does not apply to the operation of an ATV
12 used in agricultural operations.

13 (6) The owner or person in charge of a 3-wheeled ATV shall not
14 knowingly permit the vehicle to be operated by a child less than 16
15 years of age.

16 (7) The owner or person in charge of an ORV shall not
17 knowingly permit the vehicle to be operated by a person who is
18 incompetent to operate the vehicle because of mental or physical
19 disability except as provided in section 81131.

20 (8) The department shall implement a comprehensive ORV
21 information, safety education, and training program that shall
22 include the training of operators and the preparation and
23 dissemination of information and safety advice to the public. The
24 program shall provide for the training of youthful operators and
25 for the issuance of ORV safety certificates to those who
26 successfully complete the training provided under the program and
27 may include separate instruction for each type of ORV.

1 (9) In implementing a program ~~that is established pursuant to~~
2 ~~this section~~ **UNDER SUBSECTION (8)**, the department shall cooperate
3 with private organizations and associations, private and public
4 corporations, the department of education, the department of state,
5 and local governmental units. The department shall consult with ORV
6 and environmental organizations and associations in regard to the
7 subject matter of a training program and performance testing that
8 leads to certification of ORV operators.

9 (10) The department may designate a person it considers
10 qualified to provide course instruction and to award ORV safety
11 certificates.

12 (11) The department may promulgate rules to implement
13 subsections (8) to (10).

14 (12) Subject to subsections (13), (14), and (17), a child who
15 is less than 16 years of age ~~may~~ **SHALL NOT** operate an ORV ~~if~~ **UNLESS**
16 the child is under the direct visual supervision of an adult and
17 the child has in his or her immediate possession an ORV safety
18 certificate issued pursuant to this section or a comparable ORV
19 safety certificate issued under the authority of another state or a
20 province of Canada.

21 (13) A child who is less than 12 years of age shall not
22 operate a 4-wheeled ATV, unless the child is not less than 10 years
23 of age and is on private land owned by a parent or legal guardian
24 of the child. This subsection does not apply to the operation of an
25 ATV used in agricultural operations.

26 (14) A child who is less than 16 years of age shall not
27 operate a 3-wheeled ATV.

House Bill No. 4323 (H-2) as amended March 20, 2007

1 (15) When operating an ORV, ~~under subsection (12),~~ a child WHO
2 **IS LESS THAN 16 YEARS OF AGE** shall present the ORV safety
3 certificate to a peace officer upon demand.

4 (16) Notwithstanding any other provision of this section, an
5 operator who is less than 12 years of age shall not cross a highway
6 or street. An operator who is not less than 12 years of age but
7 less than 16 years of age may cross a highway or street or operate
8 on the right-of-way or shoulder of ~~designated access routes~~ **ROADS**
9 **AND STREETS ON WHICH ORV USE IS AUTHORIZED** pursuant to section
10 ~~81131-81131~~ **(2) OR (4)** if the operator has a valid ORV safety
11 certificate in his or her immediate possession and meets any other
12 requirements under this section for operation of the vehicle.

13 (17) The requirement of possession or presentation of an ORV
14 safety certificate under this section does not apply until
15 implementation of the program for the vehicle proposed to be
16 operated required by subsection (8).

17 **(18) THE REQUIREMENTS OF THIS SECTION ARE IN ADDITION TO ANY**
18 **APPLICABLE REQUIREMENTS OF SECTION [81131(8)].**

19 Sec. 81131. ~~(1) A local unit of government may pass an~~
20 ~~ordinance establishing access routes along streets and highways~~
21 ~~under its jurisdiction, if those access routes do not involve state~~
22 ~~or federal highways, and if they meet the requirements of the plan~~
23 ~~developed pursuant to section 81127. If necessary, consent of a~~
24 ~~state or federal land management agency shall be obtained for the~~
25 ~~location of the route.~~

26 **(1)** ~~(2)~~ A municipality may pass an ordinance allowing a
27 permanently disabled person to operate an ORV in that municipality.

House Bill No. 4323 (H-2) as amended March 20, 2007

1 (2) [SUBJECT TO SUBSECTION (6),] THE COUNTY BOARD OF COMMISSIONERS
2 OF AN ELIGIBLE COUNTY
3 MAY ADOPT AN ORDINANCE AUTHORIZING THE OPERATION OF ORVS ON THE
4 MAINTAINED PORTION OF 1 OR MORE ROADS LOCATED WITHIN THE COUNTY.
5 NOT LESS THAN 28 DAYS BEFORE A PUBLIC HEARING ON THE ORDINANCE, THE
6 COUNTY CLERK SHALL SEND NOTICE OF THE PUBLIC HEARING, BY CERTIFIED
7 MAIL, TO THE COUNTY ROAD COMMISSION AND, IF STATE FORESTLAND IS
8 LOCATED WITHIN THE COUNTY, TO THE DEPARTMENT.

9 (3) THE BOARD OF COUNTY ROAD COMMISSIONERS MAY CLOSE A ROAD TO
10 THE OPERATION OF ORVS UNDER SUBSECTION (2) TO PROTECT THE
11 ENVIRONMENT OR IF THE OPERATION OF ORVS UNDER SUBSECTION (2) POSES
12 A PARTICULAR AND DEMONSTRABLE THREAT TO PUBLIC SAFETY. A COUNTY
13 ROAD COMMISSION SHALL NOT UNDER THIS SUBSECTION CLOSE MORE THAN 30%
14 OF THE LINEAR MILES OF ROADS LOCATED WITHIN THE COUNTY TO THE
15 OPERATION OF ORVS UNDER SUBSECTION (2).

16 (4) [SUBJECT TO SUBSECTION (6),] THE LEGISLATIVE BODY OF A
17 MUNICIPALITY LOCATED IN AN
18 ELIGIBLE COUNTY MAY ADOPT AN ORDINANCE AUTHORIZING THE OPERATION OF
19 ORVS ON THE MAINTAINED PORTION OF 1 OR MORE STREETS WITHIN THE
20 MUNICIPALITY.

21 (5) [SUBJECT TO SUBSECTION (6),] IF A COUNTY OR MUNICIPALITY ADOPTS
22 AN ORDINANCE PURSUANT
23 TO SUBSECTION (2) OR (4), RESPECTIVELY, A PERSON MAY OPERATE AN ORV
24 WITH THE FLOW OF TRAFFIC ON THE FAR RIGHT OF THE MAINTAINED PORTION
25 OF THE ROAD OR STREET, RESPECTIVELY, COVERED BY THE ORDINANCE. A
26 PERSON SHALL NOT OPERATE AN ORV PURSUANT TO SUBSECTION (2) OR (4)
27 AT A SPEED GREATER THAN 25 MILES PER HOUR OR A LOWER POSTED ORV
28 SPEED LIMIT OR IN A MANNER THAT INTERFERES WITH TRAFFIC ON THE ROAD
29 OR STREET. ORVS OPERATED PURSUANT TO SUBSECTION (2) OR (4) SHALL
30 TRAVEL SINGLE FILE, EXCEPT THAT AN ORV MAY TRAVEL ABREAST OF

House Bill No. 4323 (H-2) as amended March 20, 2007

1 ANOTHER ORV WHEN IT IS OVERTAKING AND PASSING, OR BEING OVERTAKEN
2 AND PASSED BY, ANOTHER ORV.

[(6) SUBSECTIONS (2) TO (5) AND AN ORDINANCE ADOPTED UNDER
SUBSECTION (2) OR (4) DO NOT APPLY BEGINNING 5 YEARS AFTER THE EFFECTIVE
DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION.

3 [(7)] IN ADDITION TO ANY APPLICABLE REQUIREMENT OF SECTION

4 81133(C), A PERSON SHALL NOT OPERATE AN ORV PURSUANT TO THIS
5 SECTION WHEN VISIBILITY IS SUBSTANTIALLY REDUCED DUE TO WEATHER
6 CONDITIONS WITHOUT DISPLAYING A LIGHTED HEADLIGHT AND LIGHTED
7 TAILLIGHT. BEGINNING JANUARY 1, 2010, A PERSON SHALL NOT OPERATE AN
8 ORV PURSUANT TO THIS SECTION WITHOUT DISPLAYING A LIGHTED HEADLIGHT
9 AND LIGHTED TAILLIGHT.

10 [(8)] A PERSON UNDER 18 YEARS OF AGE SHALL NOT OPERATE AN ORV
11 PURSUANT TO [THIS SECTION] UNLESS THE PERSON IS IN
12 POSSESSION OF A VALID DRIVER LICENSE OR UNDER THE DIRECT
13 SUPERVISION OF A PARENT OR GUARDIAN AND THE PERSON HAS IN HIS OR
14 HER IMMEDIATE POSSESSION AN ORV SAFETY CERTIFICATE ISSUED PURSUANT
15 TO THIS PART OR A COMPARABLE ORV SAFETY CERTIFICATE ISSUED UNDER
16 THE AUTHORITY OF ANOTHER STATE OR A PROVINCE OF CANADA. [A PERSON UNDER
17 12 YEARS OF AGE SHALL NOT OPERATE AN ORV PURSUANT TO THIS SECTION.] THE
18 REQUIREMENTS OF THIS SUBSECTION ARE IN ADDITION TO ANY APPLICABLE
19 REQUIREMENTS OF SECTION 81129.

19 [(9)] ~~(3)~~ A board of county road commissioners, a county board
20 of commissioners, ~~and a local unit of government do~~ OR A
21 MUNICIPALITY DOES not have a duty to maintain a ~~highway~~ ROAD OR
22 STREET under ~~their respective jurisdictions~~ ITS JURISDICTION in a
23 condition reasonably safe and convenient for the operation of ORVs,
24 except the following ORVs:

25 (a) ORVs registered as motor vehicles as provided in the code.

26 (b) ORVs permitted by an ordinance as provided in subsection

27 ~~(2)~~ (1).

House Bill No. 4323 (H-2) as amended March 20, 2007

1 **[(10)]** ~~(4)~~ Beginning October 19, 1993, a board of county road
 2 commissioners, a county board of commissioners, and a county are,
 3 and, beginning on April 25, 1995, a municipality is, immune from
 4 tort liability for injuries or damages sustained by any person
 5 arising in any way out of the operation or use of an ORV on
 6 maintained or unmaintained ~~highways~~ **ROADS, STREETS**, shoulders, and
 7 rights-of-way over which the board of county road commissioners,
 8 the county board of commissioners, or the local unit of government
 9 has jurisdiction. The immunity provided by this subsection does not
 10 apply to actions that constitute gross negligence. ~~Gross negligence~~
 11 ~~is defined as~~ **AS USED IN THIS SUBSECTION, "GROSS NEGLIGENCE" MEANS**
 12 conduct so reckless as to demonstrate a substantial lack of concern
 13 for whether an injury results.

14 **[(11)]** IN A COURT ACTION IN THIS STATE, IF COMPETENT EVIDENCE
 15 DEMONSTRATES THAT A VEHICLE THAT IS PERMITTED TO OPERATE ON A ROAD
 16 OR STREET PURSUANT TO THE CODE WAS IN A COLLISION WITH AN ORV
 17 REQUIRED TO BE OPERATED ON THE FAR RIGHT OF THE MAINTAINED PORTION
 18 OF A ROAD OR STREET PURSUANT TO AN ORDINANCE ADOPTED UNDER
 19 SUBSECTION (2) OR (4), THE OPERATOR OF THE ORV SHALL BE CONSIDERED
 20 PRIMA FACIE NEGLIGENT.

21 **[(12)]** A VIOLATION OF AN ORDINANCE DESCRIBED IN THIS SECTION IS
 22 A MUNICIPAL CIVIL INFRACTION. THE ORDINANCE MAY PROVIDE FOR A
 23 MAXIMUM FINE OF NOT MORE THAN \$500.00 FOR A VIOLATION OF THE
 24 ORDINANCE. IN ADDITION, THE COURT SHALL ORDER THE DEFENDANT TO PAY
 25 THE COST OF REPAIRING ANY DAMAGE TO THE ENVIRONMENT, A ROAD OR
 26 STREET, OR PUBLIC PROPERTY DAMAGED AS A RESULT OF THE VIOLATION.

27 **[(13)]** THE TREASURER OF THE LOCAL UNIT OF GOVERNMENT SHALL

House Bill No. 4323 (H-2) as amended March 20, 2007

1 DEPOSIT FINES COLLECTED BY THAT LOCAL UNIT OF GOVERNMENT UNDER
2 SECTION 8379 OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236,
3 MCL 600.8379, AND SUBSECTION [(12)] AND DAMAGES COLLECTED
4 UNDER SUBSECTION [(12)] INTO A FUND TO BE DESIGNATED AS THE "ORV
5 FUND". THE LEGISLATIVE BODY OF THE LOCAL UNIT OF GOVERNMENT SHALL
6 APPROPRIATE REVENUE IN THE ORV FUND AS FOLLOWS:

7 (A) FIFTY PERCENT TO THE COUNTY SHERIFF OR POLICE DEPARTMENT
8 RESPONSIBLE FOR LAW ENFORCEMENT IN THE LOCAL UNIT OF GOVERNMENT FOR
9 ORV ENFORCEMENT AND TRAINING.

10 (B) FIFTY PERCENT TO THE BOARD OF COUNTY ROAD COMMISSIONERS
11 OR, IN THE CASE OF A CITY OR VILLAGE, TO THE DEPARTMENT RESPONSIBLE
12 FOR STREET MAINTENANCE IN THE CITY OR VILLAGE, FOR REPAIRING DAMAGE
13 TO ROADS OR STREETS AND THE ENVIRONMENT THAT MAY HAVE BEEN CAUSED
14 BY ORVS AND FOR POSTING SIGNS INDICATING ORV SPEED LIMITS OR
15 INDICATING WHETHER ROADS OR STREETS ARE OPEN OR CLOSED TO THE
16 OPERATION OF ORVS UNDER THIS SECTION.

17 [(14)] AS USED IN THIS SECTION:

18 (A) "ELIGIBLE COUNTY" MEANS MASON, LAKE, OSCEOLA, CLARE,
19 GLADWIN, ARENAC, OR BAY COUNTY OR A COUNTY LYING NORTH THEREOF,
20 INCLUDING ALL OF THE COUNTIES OF THE UPPER PENINSULA.

21 (B) "LOCAL UNIT OF GOVERNMENT" MEANS A COUNTY OR MUNICIPALITY.

22 (C) "MUNICIPALITY" MEANS A CITY OR VILLAGE.

23 (D) "ROAD" MEANS A COUNTY PRIMARY ROAD OR COUNTY LOCAL ROAD AS
24 DESCRIBED IN SECTION 5 OF 1951 PA 51, MCL 247.655.

25 (E) "STREET" MEANS A CITY OR VILLAGE MAJOR STREET OR CITY OR
26 VILLAGE LOCAL STREET AS DESCRIBED IN SECTION 9 OF 1951 PA 51, MCL
27 247.659.

House Bill No. 4323 (H-2) as amended March 20, 2007

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

(a) At a rate of speed greater than is reasonable and proper, or in a careless manner having due regard for conditions then existing.

(b) Unless the person and any passenger in or on the vehicle is wearing on his or her head a crash helmet and protective eyewear approved by the United States department of transportation. This subdivision does not apply if the vehicle is equipped with a roof that meets or exceeds standards for a crash helmet and the operator and each passenger is wearing a properly adjusted and fastened safety belt.

(c) During the hours of 1/2 hour after sunset to 1/2 hour before sunrise without displaying a lighted headlight and lighted taillight. **THE REQUIREMENTS OF THIS SUBDIVISION ARE IN ADDITION TO ANY APPLICABLE REQUIREMENTS OF SECTION [81131(7)].**

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

(e) In a state game area or state park or recreation area, except on roads, trails, or areas designated for this purpose; on state owned lands under the control of the department other than

1 game areas, state parks, or recreational areas where the operation
2 would be in violation of rules promulgated by the department; in a
3 forest nursery or planting area; on public lands posted or
4 reasonably identifiable as an area of forest reproduction, and when
5 growing stock may be damaged; in a dedicated natural area of the
6 department; or in any area in such a manner as to create an erosive
7 condition, or to injure, damage, or destroy trees or growing crops.
8 However, the department may permit an owner and guests of the owner
9 to use an ORV within the boundaries of a state forest in order to
10 access the owner's property.

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

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

1 agency when tested according to the provisions of the current SAE
2 J1287, June 86 test procedure for exhaust levels of stationary
3 motorcycles, using sound level meters and ancillary equipment
4 therein described. A vehicle subject to this part, manufactured or
5 assembled after December 31, 1972 and used, sold, or offered for
6 sale in this state, shall conform to the noise emission levels
7 established by the United States environmental protection agency
8 under the noise control act of 1972, ~~Public Law 92-574, 86 Stat.~~
9 ~~1234-42~~ **USC 4901 TO 4918.**

10 (h) Within 100 feet of a dwelling at a speed greater than the
11 minimum required to maintain controlled forward movement of the
12 vehicle, except on property owned or under the operator's control
13 or on which the operator is an invited guest, or on a roadway,
14 forest road, or forest trail maintained by or under the
15 jurisdiction of the department, or on ~~an ORV access route as~~
16 ~~authorized by local ordinance~~ **A ROAD OR STREET ON WHICH ORV USE IS**
17 **AUTHORIZED PURSUANT TO SECTION 81131(2) OR (4).**

18 (i) In or upon the lands of another without the written
19 consent of the owner, **THE** owner's agent, or **A** lessee, when required
20 by part 731. The operator of the vehicle is liable for damage to
21 private property, including, but not limited to, damage to trees,
22 shrubs, **OR** growing crops, ~~or~~ injury to **OTHER** living creatures, or
23 damage caused through vehicle operation in a manner so as to create
24 erosive or other ecological damage. ~~to private property.~~ The owner
25 of the private property may recover from the person responsible
26 nominal damages of not less than the amount of damage or injury.
27 Failure to post private property or fence or otherwise enclose in a

1 manner to exclude intruders or of the private property owner or
2 other authorized person to personally communicate against trespass
3 does not imply consent to ORV use.

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

25 (k) While transporting on the vehicle a bow unless unstrung or
26 encased, or a firearm unless unloaded and securely encased, or
27 equipped with and made inoperative by a manufactured keylocked

1 trigger housing mechanism.

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

4 (m) Within 100 feet of a slide, ski, or skating area, unless
5 the vehicle is being used for the purpose of servicing the area **OR**
6 **IS BEING OPERATED PURSUANT TO SECTION 81131(2) OR (4).**

7 (n) On an operating or nonabandoned railroad or railroad
8 right-of-way, or public utility right-of-way, other than for the
9 purpose of crossing at a clearly established site intended for
10 vehicular traffic, except railroad, public utility, or law
11 enforcement personnel while in performance of their duties, and
12 except if the right-of-way is designated as ~~established~~ **PROVIDED**
13 **FOR** in section 81127.

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

17 (p) To hunt, pursue, worry, kill, or attempt to hunt, pursue,
18 worry, or kill ~~a bird or~~ **AN** animal, **WHETHER** wild or domesticated.

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

20 (r) In a manner contrary to operating regulations on public
21 lands.

22 (s) While transporting or possessing, in or on the vehicle,
23 alcoholic liquor in a container that is open or uncapped or upon
24 which the seal is broken, except under either of the following
25 circumstances:

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

1 (ii) If the vehicle does not have a trunk or compartment
 2 separate from the passenger compartment, the container is encased
 3 or enclosed.

4 (t) While transporting any passenger in or upon an ORV unless
 5 the manufacturing standards for the vehicle make provisions for
 6 transporting passengers.

7 (u) On adjacent private land, in an area zoned residential,
 8 within 300 feet of a dwelling at a speed greater than the minimum
 9 required to maintain controlled forward movement of the vehicle
 10 except on a roadway, forest road, or forest trail maintained by or
 11 under the jurisdiction of the department, or on ~~an ORV access route~~
 12 ~~as authorized by local ordinance~~ **A ROAD OR STREET ON WHICH ORV USE**
 13 **IS AUTHORIZED PURSUANT TO SECTION 81131(2) OR (4).**

14 Sec. 81147. (1) Except as otherwise provided in this part, a
 15 person who violates ~~a provision of this part~~ is guilty of a
 16 misdemeanor ~~;~~ punishable by imprisonment for not more than 90 days
 17 ~~;~~ or a fine of not less than \$50.00 or more than \$1,000.00, or
 18 both, for each violation. ~~of the part.~~

19 **(2) A PERSON WHO VIOLATES SECTION 81133(E) BY OPERATING AN ORV**
 20 **IN SUCH A MANNER AS TO CREATE AN EROSION CONDITION OR WHO VIOLATES**
 21 **SECTION 81133(I) OR (O) IS GUILTY OF A MISDEMEANOR PUNISHABLE BY**
 22 **IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR A FINE OF NOT LESS THAN**
 23 **\$250.00 OR MORE THAN \$1,000.00, OR BOTH, FOR EACH VIOLATION.**

24 **(3)** ~~(2)~~ A person who violates ~~sections~~ **SECTION** 81105, 81107,
 25 81115, 81116, 81121, 81130, ~~and~~ **OR** 81133(b), (c), (d), (f), (g),
 26 (h), (j), (l), ~~and~~ **OR** (m) is responsible for a state civil
 27 infraction and may be ordered to pay a civil fine of not more than

1 \$500.00.

2 (4) ~~(3)~~—A person shall not remove, deface, or destroy a sign
3 or marker placed by the department indicating the boundaries of an
4 ORV trail or area or that marks a route.

5 (5) ~~(4)~~—In addition to the penalties otherwise provided under
6 this part, a court of competent jurisdiction may order a person to
7 restore, as nearly as possible, any land, water, stream bank,
8 streambed, or other natural or geographic formation damaged by the
9 violation of this part to the condition it was in before the
10 violation occurred.

11 (6) ~~(5)~~—The department or any other peace officer may impound
12 the ORV of a person who ~~violates a provision~~ **COMMITTS A VIOLATION** of
13 this part that is punishable as a misdemeanor or who causes damage
14 to the particular area in which the ORV was used in the commission
15 of the violation.

16 (7) ~~(6)~~—Upon conviction of a person for violation ~~of a~~
17 ~~provision of this part that is punishable as a misdemeanor or any~~
18 ~~other provision of this part that results in damage to the~~
19 ~~particular area in which the ORV was used~~ **DESCRIBED IN SUBSECTION**
20 **(5)**, a court of competent jurisdiction may order ~~an~~ **THE** ORV and any
21 personal property on the ORV seized as a result of the violation
22 returned to the owner or, upon recommendation of the local
23 prosecuting attorney, turned over to the department. ~~If the~~ **AN** ORV
24 ~~and OR~~ any other property ~~is~~ turned over to the department, ~~they~~
25 **UNDER THIS SUBSECTION** shall be disposed of in the manner provided
26 for condemnation of property in part 16. The proceeds realized by
27 the department under this subsection shall first be used to restore

- 1 areas damaged by ORV use, with the balance to be deposited in the
- 2 off-road vehicle account.