

**SUBSTITUTE FOR
SENATE BILL NO. 1498**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 81133 (MCL 324.81133), as amended by 2008 PA
240.

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 subdivision does not apply if the vehicle is equipped with a roof

1 that meets or exceeds standards for a crash helmet and the operator
2 and each passenger is wearing a properly adjusted and fastened
3 safety belt.

4 (c) During the hours of 1/2 hour after sunset to 1/2 hour
5 before sunrise without displaying a lighted headlight and lighted
6 taillight. The requirements of this subdivision are in addition to
7 any applicable requirements of section 81131(8).

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

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

1 to use an ORV within the boundaries of a state forest in order to
2 access the owner's property.

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

9 (g) Unless the vehicle is equipped with a spark arrester type
10 United States forest service approved muffler, in good working
11 order and in constant operation. Exhaust noise emission shall not
12 exceed 86 Db(A) or 82 Db(A) on a vehicle manufactured after January
13 1, 1986, when the vehicle is under full throttle, traveling in
14 second gear, and measured 50 feet at right angles from the vehicle
15 path with a sound level meter that meets the requirement of ANSI
16 S1.4 1983, using procedure and ancillary equipment therein
17 described; or 99 Db(A) or 94 Db(A) on a vehicle manufactured after
18 January 1, 1986, or that level comparable to the current sound
19 level as provided for by the United States environmental protection
20 agency when tested according to the provisions of the current SAE
21 J1287, June 86 test procedure for exhaust levels of stationary
22 motorcycles, using sound level meters and ancillary equipment
23 therein described. A vehicle subject to this part, manufactured or
24 assembled after December 31, 1972 and used, sold, or offered for
25 sale in this state, shall conform to the noise emission levels
26 established by the United States environmental protection agency
27 under the noise control act of 1972, 42 USC 4901 to 4918.

1 (h) Within 100 feet of a dwelling at a speed greater than the
2 minimum required to maintain controlled forward movement of the
3 vehicle, except on property owned or under the operator's control
4 or on which the operator is an invited guest, or on a roadway,
5 forest road, or forest trail maintained by or under the
6 jurisdiction of the department, or on a road or street on which ORV
7 use is authorized pursuant to section 81131(2), (3), or (5).

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

21 (j) In an area on which public hunting is permitted during the
22 regular November firearm deer season from 7 a.m. to 11 a.m. and
23 from 2 p.m. to 5 p.m., except during an emergency or for law
24 enforcement purposes, to go to and from a permanent residence or a
25 hunting camp otherwise inaccessible by a conventional wheeled
26 vehicle, to remove from public land a deer, elk, or bear that has
27 been taken under a valid license; except for the conduct of

1 necessary work functions involving land and timber survey,
2 communication and transmission line patrol, and timber harvest
3 operations; or except on property owned or under control of the
4 operator or on which the operator is an invited guest. A hunter
5 removing game ~~pursuant to~~ **UNDER** this subdivision may leave the
6 designated trail or forest road only to retrieve the game and shall
7 not exceed 5 miles per hour. A vehicle registered under the code is
8 exempt from this subdivision while operating on a public highway or
9 public or private road capable of sustaining automobile traffic. A
10 person holding a valid permit to hunt from a standing vehicle
11 issued ~~pursuant to~~ **UNDER** part 401, or a person with disabilities
12 using an ORV to access public lands for purposes of hunting or
13 fishing through use of a designated trail or forest road, is exempt
14 from this subdivision. **A PERSON HOLDING A VALID PERMIT TO HUNT FROM**
15 **A STANDING VEHICLE ISSUED UNDER PART 401, OR A PERSON WITH**
16 **DISABILITIES USING AN ORV TO ACCESS PUBLIC LANDS FOR PURPOSES OF**
17 **HUNTING OR FISHING, MAY DISPLAY A FLAG, THE COLOR OF WHICH THE**
18 **DEPARTMENT SHALL DETERMINE, TO IDENTIFY HIMSELF OR HERSELF AS A**
19 **PERSON WITH DISABILITIES OR A PERSON HOLDING A PERMIT TO HUNT FROM**
20 **A STANDING VEHICLE UNDER PART 401.**

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

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

27 (m) Within 100 feet of a slide, ski, or skating area, unless

1 the vehicle is being used for the purpose of servicing the area or
2 is being operated pursuant to section 81131(2), (3), or (5).

3 (n) On an operating or nonabandoned railroad or railroad
4 right-of-way, or public utility right-of-way, other than for the
5 purpose of crossing at a clearly established site intended for
6 vehicular traffic, except railroad, public utility, or law
7 enforcement personnel while in performance of their duties, and
8 except if the right-of-way is designated as provided for in section
9 81127.

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

13 (p) To hunt, pursue, worry, kill, or attempt to hunt, pursue,
14 worry, or kill an animal, whether wild or domesticated.

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

16 (r) In a manner contrary to operating regulations on public
17 lands.

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

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

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

27 (t) While transporting any passenger in or upon an ORV unless

1 the manufacturing standards for the vehicle make provisions for
2 transporting passengers.

3 (u) On adjacent private land, in an area zoned residential,
4 within 300 feet of a dwelling at a speed greater than the minimum
5 required to maintain controlled forward movement of the vehicle
6 except on a roadway, forest road, or forest trail maintained by or
7 under the jurisdiction of the department, or on a road or street on
8 which ORV use is authorized pursuant to section 81131(2), (3), or
9 (5).