

# HOUSE BILL No. 5640

January 17, 2008, Introduced by Reps. Sheltroun, Stahl, Rick Jones, Gillard, Pastor and Hammon and referred to the Committee on Tourism, Outdoor Recreation and Natural Resources.

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. (1) 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  
9       that meets or exceeds standards for a crash helmet and the operator

1 and each passenger is wearing a properly adjusted and fastened  
2 safety belt.

3 (c) During the hours of 1/2 hour after sunset to 1/2 hour  
4 before sunrise without displaying a lighted headlight and lighted  
5 taillight.

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

15 (e) ~~In~~**EXCEPT AS PROVIDED IN SUBSECTION (2),** IN a state game  
16 area or state park or recreation area, except on roads, trails, or  
17 areas designated for this purpose; on state owned lands under the  
18 control of the department other than game areas, state parks, or  
19 recreational areas where the operation would be in violation of  
20 rules promulgated by the department; in a forest nursery or  
21 planting area; on public lands posted or reasonably identifiable as  
22 an area of forest reproduction, and when growing stock may be  
23 damaged; in a dedicated natural area of the department; or in any  
24 area in such a manner as to create an erosive condition, or to  
25 injure, damage, or destroy trees or growing crops. However, the  
26 department may permit an owner and guests of the owner to use an  
27 ORV within the boundaries of a state forest in order to access the

1 owner's property.

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

8 (g) Unless the vehicle is equipped with a spark arrester type  
9 United States forest service approved muffler, in good working  
10 order and in constant operation. Exhaust noise emission shall not  
11 exceed 86 Db(A) or 82 Db(A) on a vehicle manufactured after January  
12 1, 1986, when the vehicle is under full throttle, traveling in  
13 second gear, and measured 50 feet at right angles from the vehicle  
14 path with a sound level meter which meets the requirement of ANSI  
15 S1.4 1983, using procedure and ancillary equipment therein  
16 described; or 99 Db(A) or 94 Db(A) on a vehicle manufactured after  
17 January 1, 1986, or that level comparable to the current sound  
18 level as provided for by the United States environmental protection  
19 agency when tested according to the provisions of the current SAE  
20 J1287, ~~June 86~~ **JULY 98** test procedure for exhaust levels of  
21 stationary motorcycles, using sound level meters and ancillary  
22 equipment therein described. A vehicle subject to this part,  
23 manufactured or assembled after December 31, 1972 and used, sold,  
24 or offered for sale in this state, shall conform to the noise  
25 emission levels established by the United States environmental  
26 protection agency under the noise control act of 1972, Public Law  
27 92-574. ~~, 86 Stat. 1234.~~

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 an ORV access route as  
7 authorized by local ordinance.

8 (i) In or upon the lands of another without the written  
9 consent of the owner, owner's agent or lessee, when required by  
10 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, growing crops, or injury to living creatures or damage  
13 caused through vehicle operation in a manner so as to create  
14 erosive or other ecological damage to private property. The owner  
15 of the private property may recover from the person responsible  
16 nominal damages of not less than the amount of damage or injury.  
17 Failure to post private property or fence or otherwise enclose in a  
18 manner to exclude intruders or of the private property owner or  
19 other authorized person to personally communicate against trespass  
20 does 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 a deer, elk, or bear from public land which has  
27 been taken under a valid license; or 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 on property owned or under control of the operator  
4 or on which the operator is an invited guest. A hunter removing  
5 game ~~pursuant to~~ **UNDER** this subdivision ~~shall be~~ **IS** allowed to  
6 leave the designated trail or forest road only to retrieve the game  
7 and shall not exceed 5 miles per hour. A vehicle registered under  
8 the code is exempt from this subdivision while operating on a  
9 public highway or public or private road capable of sustaining  
10 automobile traffic. A person holding a valid permit to hunt from a  
11 standing vehicle issued ~~pursuant to~~ **UNDER** part 401, or a person  
12 with disabilities using an ORV to access public lands for purposes  
13 of hunting or fishing through use of a designated trail or forest  
14 road, is exempt from this subdivision.

15 (k) While transporting on the vehicle a bow unless unstrung or  
16 encased, or a firearm unless unloaded and securely encased, or  
17 equipped with and made inoperative by a manufactured keylocked  
18 trigger housing mechanism.

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

21 (m) Within 100 feet of a slide, ski, or skating area, unless  
22 the vehicle is being used for the purpose of servicing the area.

23 (n) On an operating or nonabandoned railroad or railroad  
24 right-of-way, or public utility right-of-way, other than for the  
25 purpose of crossing at a clearly established site intended for  
26 vehicular traffic, except railroad, public utility, or law  
27 enforcement personnel while in performance of their duties, and

1 except if the right-of-way is designated ~~as established in~~ **IN**  
2 **COMPLIANCE WITH** section 81127.

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

6 (p) To hunt, pursue, worry, kill, or attempt to hunt, pursue,  
7 worry, or kill a bird or animal, wild or domesticated.

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

9 (r) In a manner contrary to operating regulations on public  
10 lands.

11 (s) While transporting or possessing, in or on the vehicle,  
12 alcoholic liquor in a container that is open or uncapped or upon  
13 which the seal is broken, except under either of the following  
14 circumstances:

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

17 (ii) If the vehicle does not have a trunk or compartment  
18 separate from the passenger compartment, the container is encased  
19 or enclosed.

20 (t) While transporting any passenger in or upon an ORV unless  
21 the manufacturing standards for the vehicle make provisions for  
22 transporting passengers.

23 (u) On adjacent private land, in an area zoned residential,  
24 within 300 feet of a dwelling at a speed greater than the minimum  
25 required to maintain controlled forward movement of the vehicle  
26 except on a roadway, forest road, or forest trail maintained by or  
27 under the jurisdiction of the department, or on an ORV access route

1 as authorized by local ordinance.

2 (2) A PERSON NOT LESS THAN 60 YEARS OF AGE OR A PERSON WITH A  
3 DISABILITY MAY OPERATE AN ATV ON A NONDESIGNATED TRAIL, ROUTE, OR  
4 AREA FOR PLEASURE OR HUNTING OR TO ACCESS A DESIGNATED TRAIL,  
5 ROUTE, OR AREA. AS USED IN THIS SUBSECTION, "PERSON WITH A  
6 DISABILITY" MEANS THAT TERM AS DEFINED IN SECTION 103 OF THE  
7 PERSONS WITH DISABILITIES CIVIL RIGHTS ACT, 1976 PA 220, MCL  
8 37.1103.