

SENATE BILL No. 1498

September 16, 2008, Introduced by Senators CHERRY, HARDIMAN, PRUSI, BRATER, GLEASON and OLSHOVE and referred to the Committee on Natural Resources and Environmental Affairs.

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 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.

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

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

1 access the 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 test procedure for exhaust levels of stationary
21 motorcycles, using sound level meters and ancillary equipment
22 therein described. A vehicle subject to this part, manufactured or
23 assembled after December 31, 1972 and used, sold, or offered for
24 sale in this state, shall conform to the noise emission levels
25 established by the United States environmental protection agency
26 under the noise control act of 1972, Public Law 92-574, 86 Stat.
27 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. **A PERSON HOLDING A VALID
15 PERMIT TO HUNT FROM A STANDING VEHICLE ISSUED UNDER PART 401, OR A
16 PERSON WITH DISABILITIES USING AN ORV TO ACCESS PUBLIC LANDS FOR
17 PURPOSES OF HUNTING OR FISHING, MAY DISPLAY A FLAG, THE COLOR OF
18 WHICH THE DEPARTMENT SHALL DETERMINE, TO IDENTIFY HIMSELF OR
19 HERSELF AS A PERSON WITH DISABILITIES OR A PERSON HOLDING A PERMIT
20 TO HUNT FROM 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.

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

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

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

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

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

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

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

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

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

1 transporting passengers.

2 (u) On adjacent private land, in an area zoned residential,
3 within 300 feet of a dwelling at a speed greater than the minimum
4 required to maintain controlled forward movement of the vehicle
5 except on a roadway, forest road, or forest trail maintained by or
6 under the jurisdiction of the department, or on an ORV access route
7 as authorized by local ordinance.