

SUBSTITUTE FOR  
HOUSE BILL NO. 4507

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending section 81131 (MCL 324.81131), as amended by 2008 PA  
240.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 81131. (1) A municipality may pass an ordinance allowing  
2   a permanently disabled person to operate an ORV in that  
3   municipality.  
4       (2) Subject to subsections (4) and (7), the county board of  
5   commissioners of an eligible county may adopt an ordinance  
6   authorizing the operation of ORVs on the maintained portion of 1 or  
7   more roads located within the county. Not less than 45 days before  
8   a public hearing on the ordinance, the county clerk shall send  
9   notice of the public hearing, by certified mail, to the county road  
10   commission and, if state forestland is located within the county,  
11   to the department.

1           (3) Subject to subsections (4) and (7), beginning ~~1 year after~~  
2 ~~the effective date of the amendatory act that added this subsection~~  
3 **JULY 17, 2009**, the township board of a township located in an  
4 eligible county may adopt an ordinance authorizing the operation of  
5 ORVs on the maintained portion of 1 or more roads located within  
6 the township. Not less than 28 days before a public hearing on the  
7 ordinance, the township clerk shall send notice of the public  
8 hearing, by certified mail, to the county road commission and, if  
9 state forestland is located within the township, to the department.

10           (4) The board of county road commissioners may close a road to  
11 the operation of ORVs under subsection (2) or (3) to protect the  
12 environment or if the operation of ORVs under subsection (2) or (3)  
13 poses a particular and demonstrable threat to public safety. A  
14 county road commission shall not under this subsection close more  
15 than 30% of the linear miles of roads located within the county to  
16 the operation of ORVs under subsection (2) or (3). The township  
17 board of a township located in an eligible county may adopt an  
18 ordinance to close a road to the operation of ORVs under subsection  
19 (2).

20           (5) Subject to subsection (7), the legislative body of a  
21 municipality located in an eligible county may adopt an ordinance  
22 authorizing the operation of ORVs on the maintained portion of 1 or  
23 more streets within the municipality.

24           (6) Subject to subsections (4) and (7), if a local unit of  
25 government adopts an ordinance pursuant to subsection (2), (3), or  
26 (5), a person may operate an ORV with the flow of traffic on the  
27 far right of the maintained portion of the road or street covered

1 by the ordinance. A person shall not operate an ORV pursuant to  
2 subsection (2), (3), or (5) at a speed greater than 25 miles per  
3 hour or a lower posted ORV speed limit or in a manner that  
4 interferes with traffic on the road or street. Unless the person  
5 possesses a license as defined in section 25 of the Michigan  
6 vehicle code, 1949 PA 300, MCL 257.25, a person shall not operate  
7 an ORV pursuant to subsection (2), (3), or (5) if the ORV is  
8 registered as a motor vehicle under chapter II of the Michigan  
9 vehicle code, 1949 PA 300, MCL 257.201 to 257.259, and either is  
10 more than 60 inches wide or has 3 wheels. ORVs operated pursuant to  
11 subsection (2), (3), or (5) shall travel single file, except that  
12 an ORV may travel abreast of another ORV when it is overtaking and  
13 passing, or being overtaken and passed by, another ORV.

14 (7) Subsections (2) to (6) and an ordinance adopted under  
15 subsection (2), (3), or (5) do not apply ~~beginning 5 years after~~  
16 ~~the effective date of the amendatory act that added this subsection~~  
17 **AFTER JULY 16, 2013.**

18 (8) In addition to any applicable requirement of section  
19 81133(c), a person shall not operate an ORV pursuant to this  
20 section when visibility is substantially reduced due to weather  
21 conditions without displaying a lighted headlight and lighted  
22 taillight. Beginning January 1, 2010, a person shall not operate an  
23 ORV pursuant to this section without displaying a lighted headlight  
24 and lighted taillight.

25 (9) A person under 18 years of age shall not operate an ORV  
26 pursuant to this section unless the person is in possession of a  
27 valid driver license or under the direct supervision of a parent or

1 guardian and the person has in his or her immediate possession an  
2 ORV safety certificate issued pursuant to this part or a comparable  
3 ORV safety certificate issued under the authority of another state  
4 or a province of Canada. A person under 12 years of age shall not  
5 operate an ORV pursuant to this section. The requirements of this  
6 subsection are in addition to any applicable requirements of  
7 section 81129.

8 (10) A township that has authorized the operation of ORVs on a  
9 road under subsection (3) does not have a duty to maintain the road  
10 in a condition reasonably safe and convenient for the operation of  
11 ORVs. A board of county road commissioners, a county board of  
12 commissioners, or a municipality does not have a duty to maintain a  
13 road or street under its jurisdiction in a condition reasonably  
14 safe and convenient for the operation of ORVs, except the following  
15 ORVs:

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

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

18 (1).

19 (11) Beginning October 19, 1993, a board of county road  
20 commissioners, a county board of commissioners, and a county are,  
21 and, beginning on April 25, 1995, a municipality is, immune from  
22 tort liability for injuries or damages sustained by any person  
23 arising in any way out of the operation or use of an ORV on  
24 maintained or unmaintained roads, streets, shoulders, and rights-  
25 of-way over which the board of county road commissioners, the  
26 county board of commissioners, or the municipality has  
27 jurisdiction. The immunity provided by this subsection does not

1 apply to actions that constitute gross negligence. As used in this  
2 subsection, "gross negligence" means conduct so reckless as to  
3 demonstrate a substantial lack of concern for whether an injury  
4 results.

5 (12) In a court action in this state, if competent evidence  
6 demonstrates that a vehicle that is permitted to operate on a road  
7 or street pursuant to the code was in a collision with an ORV  
8 required to be operated on the far right of the maintained portion  
9 of a road or street pursuant to an ordinance adopted under  
10 subsection (2), (3), or (5), the operator of the ORV shall be  
11 considered prima facie negligent.

12 (13) A violation of an ordinance described in this section is  
13 a municipal civil infraction. The ordinance may provide for a  
14 maximum fine of not more than \$500.00 for a violation of the  
15 ordinance. In addition, the court shall order the defendant to pay  
16 the cost of repairing any damage to the environment, a road or  
17 street, or public property damaged as a result of the violation.

18 (14) The treasurer of the local unit of government shall  
19 deposit fines collected by that local unit of government under  
20 section 8379 of the revised judicature act of 1961, 1961 PA 236,  
21 MCL 600.8379, and subsection (13) and damages collected under  
22 subsection (13) into a fund to be designated as the "ORV fund". The  
23 legislative body of the local unit of government shall appropriate  
24 revenue in the ORV fund as follows:

25 (a) Fifty percent to the county sheriff or police department  
26 responsible for law enforcement in the local unit of government for  
27 ORV enforcement and training.

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1 (b) Fifty percent to the board of county road commissioners  
2 or, in the case of a city or village, to the department responsible  
3 for street maintenance in the city or village, for repairing damage  
4 to roads or streets and the environment that may have been caused  
5 by ORVs and for posting signs indicating ORV speed limits or  
6 indicating whether roads or streets are open or closed to the  
7 operation of ORVs under this section.

8 (15) As used in this section:

9 (a) "Eligible county" means **ANY OF THE FOLLOWING:**

10 (i) Mason, Lake, Osceola, Clare, Gladwin, Arenac, or Bay county  
11 or a county lying north thereof, including all of the counties of  
12 the Upper Peninsula.

13 (ii) **HURON, TUSCOLA, SANILAC, <<SAGINAW, GRATIOT, MONTCALM,>> OR**  
14 **ST. CLAIR COUNTY.**

15 (b) "Local unit of government" means a county, township, or  
16 municipality.

17 (c) "Municipality" means a city or village.

18 (d) "Road" means a county primary road or county local road as  
19 described in section 5 of 1951 PA 51, MCL 247.655.

20 (e) "Street" means a city or village major street or city or  
21 village local street as described in section 9 of 1951 PA 51, MCL  
247.659.