

# HOUSE BILL No. 6160

May 12, 2010, Introduced by Rep. Sheltroun 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 sections 81115, 81116, 81117, 81119, 81121, 81122,  
81123, and 81127 (MCL 324.81115, 324.81116, 324.81117, 324.81119,  
324.81121, 324.81122, 324.81123, and 324.81127), section 81115 as  
amended by 2008 PA 240, section 81116 as amended by 2006 PA 477,  
sections 81117 and 81119 as amended by 2004 PA 587, sections 81121  
and 81122 as added by 1995 PA 58, and sections 81123 and 81127 as  
amended by 1998 PA 86, and by adding section 81125a; and to repeal  
acts and parts of acts.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1       Sec. 81115. (1) A person shall not operate an ~~ORV~~~~OHV~~ under  
2       any of the following conditions unless **THE OWNER OF** the ~~ORV~~~~is~~

1 ~~licensed with~~ OHV HAS OBTAINED A TRAIL PERMIT FOR THE OHV THROUGH  
2 the department or a dealer as provided under this part:

3 (a) Except as otherwise provided by law, on or over land,  
4 snow, ice, or other natural terrain.

5 (b) Except as otherwise provided in this part, on a forest  
6 trail or in a designated area.

7 (c) Except as otherwise provided in section 81102, on the  
8 maintained portion of a road or street.

9 (2) ~~Licensure~~ A TRAIL PERMIT is not required for an ~~ORV~~ OHV  
10 used exclusively in a safety ~~and~~ training program as required in  
11 section 81129 FOR OPERATING AN OHV ON PRIVATE PROPERTY, OR FOR  
12 OPERATING AN OHV ON THE FROZEN SURFACE OF A LAKE, RIVER, OR STREAM  
13 FOR THE PURPOSE OF ICE FISHING.

14 Sec. 81116. (1) The owner of an ~~ORV~~ OHV requiring ~~licensure~~ A  
15 TRAIL PERMIT under this part shall file an application for a  
16 ~~license~~ THE PERMIT with the department or a dealer on forms  
17 provided by the department. If an ~~ORV~~ OHV is sold by a dealer, the  
18 application for a ~~license~~ TRAIL PERMIT shall be submitted to the  
19 department by the dealer in the name of the owner. The application  
20 shall be signed by the owner of the vehicle and shall, SUBJECT TO  
21 SUBSECTION (6), be accompanied by a fee of ~~\$16.25~~ \$30.50. A person  
22 shall not file an application for ~~registration~~ A TRAIL PERMIT that  
23 contains false information. Upon receipt of the application in  
24 approved form and upon payment of the appropriate fee, the  
25 department or dealer shall issue to the applicant a ~~license~~ which  
26 shall be TRAIL PERMIT THAT IS valid for the 12-month period for  
27 which it is issued. A ~~license~~ TRAIL PERMIT shall be issued for the

1 12-month period beginning April 1 and ending March 31 each year.

2 (2) Dealers may purchase from the department ~~ORV-OHV licenses~~  
3 **TRAIL PERMITS** for resale to owners of vehicles requiring licensure  
4 **A TRAIL PERMIT** under this part. The department shall refund to  
5 dealers the purchase price of any ~~ORV licenses-OHV TRAIL PERMITS~~  
6 returned within 90 days after the end of the 12-month period for  
7 which they were valid. The dealer shall maintain and provide to the  
8 department records of ~~ORV license-OHV TRAIL PERMIT~~ sales on forms  
9 provided by the department. In addition to the sale of ~~ORV licenses~~  
10 **OHV TRAIL PERMITS**, a dealer engaged in the sale, lease, or rental  
11 of ~~ORVs-OHVs~~ as a regular business may sell any other license or  
12 permit authorized by the department to be sold by other dealers  
13 under the statutes of this state.

14 (3) The ~~license-TRAIL PERMIT~~ shall be permanently attached to  
15 the vehicle in the manner prescribed and in the location designated  
16 by the department before the vehicle may legally be operated in  
17 accordance with this part.

18 (4) If at the time of sale the purchaser certifies on a form  
19 provided by the department that the purchased vehicle otherwise  
20 requiring a ~~license-TRAIL PERMIT~~ under this part will be used and  
21 stored outside of this state and will not be returned by the  
22 purchaser to this state for use, then a ~~license-TRAIL PERMIT~~ is not  
23 required.

24 (5) If a ~~license-TRAIL PERMIT~~ acquired by the owner of an ~~ORV~~  
25 **OHV** is lost or destroyed, the department shall provide that person  
26 with a replacement ~~license-TRAIL PERMIT~~ free of charge. The  
27 department may require a person requesting a replacement ~~license~~

1 TRAIL PERMIT to supply sufficient evidence of the loss or  
2 destruction of the original ~~license~~ TRAIL PERMIT.

3 (6) BEGINNING JANUARY 1, 2016 AND EVERY 5 YEARS THEREAFTER,  
4 THE COST OF AN OHV TRAIL PERMIT SHALL BE ADJUSTED BASED ON THE  
5 CONSUMER PRICE INDEX FOR THE PREVIOUS 5-YEAR PERIOD AND ROUNDED TO  
6 THE NEAREST WHOLE DOLLAR. AS USED IN THIS SUBSECTION, "CONSUMER  
7 PRICE INDEX" MEANS THE MOST COMPREHENSIVE INDEX OF CONSUMER PRICES  
8 AVAILABLE FOR THIS STATE FROM THE BUREAU OF LABOR STATISTICS OF THE  
9 UNITED STATES DEPARTMENT OF LABOR.

10 Sec. 81117. (1) Money in the ~~off-road~~ OFF-HIGHWAY vehicle  
11 account shall be used only for the following:

12 (a) Signage for and improvement, maintenance, and construction  
13 of ~~ORV~~ OHV trails, routes, or areas.

14 (b) The administration and enforcement of this part.

15 (c) The leasing of land.

16 (d) The acquisition of easements, permits, or other agreements  
17 for the use of land for ~~ORV~~ OHV trails, routes, or areas.

18 (e) The restoration of any of the natural resources of this  
19 state on public land that are damaged due to ~~ORV~~ OHV use in  
20 conjunction with the plan required by section 81123.

21 (f) One dollar of the revenue from each fee collected under  
22 section 81116 shall be used for the purposes of sections 81129 and  
23 81130.

24 (G) FOURTEEN DOLLARS AND 50 CENTS OF THE REVENUE COLLECTED  
25 FROM EACH FEE UNDER SECTION 81116 SHALL BE USED BY THE DEPARTMENT  
26 FOR DEPARTMENTAL OPERATIONS, ENFORCEMENT, AND SPECIAL INITIATIVES  
27 RELATING TO THIS PART. THIS AMOUNT SHALL BE ADJUSTED BASED ON THE

1 CONSUMER PRICE INDEX CHANGES REFLECTED UNDER SECTION 81116(6) .

2 (H) FIFTY CENTS OF THE REVENUE FROM EACH FEE COLLECTED BY AN  
3 AUTHORIZED VENDOR SHALL BE PAID TO THE VENDOR.

4 (2) All **REMAINING** revenue from each fee collected under  
5 section 81116 shall be deposited in the ~~off-road~~ **OFF-HIGHWAY**  
6 vehicle account.

7 (3) All funds allocated under this part shall be for projects  
8 that are open to the public.

9 Sec. 81119. (1) Not less than 50% of the money in the ~~off-road~~  
10 **OFF-HIGHWAY** vehicle account shall be distributed each year in the  
11 form of grants for the purpose of planning, improving,  
12 constructing, signing, and maintaining ~~ORV-OHV~~ trails, areas, and  
13 routes and access to those trails, areas, and routes, the leasing  
14 of land, the acquisition of easements, permits, or other agreements  
15 for the use of land for ~~ORV-OHV~~ trails, areas, and routes, to  
16 public agencies and nonprofit incorporated clubs and organizations.

17 (2) An application by a public agency or a nonprofit  
18 incorporated club or organization shall include a plan for  
19 restoration of any of the natural resources of this state on public  
20 land that are damaged due to ~~ORV-OHV~~ use. The public agencies or  
21 nonprofit incorporated clubs or organizations shall indicate on  
22 their application that their use of grant money is consistent with,  
23 and meets the requirements of, the plan developed by the department  
24 pursuant to section 81123, and the trail, route, or area is  
25 available to the public. The department shall not approve a grant  
26 unless the application meets the requirements of the plan. The  
27 department shall make application forms available and consider

1 grant requests on a yearly basis.

2 (3) A grant shall not be made for a trail, route, or area  
3 unless the trail, route, or area is available for ~~ORV-OHV~~ use and  
4 is approved by the department. A grant for the cost of leasing of  
5 land and the acquisition of easements, permits, or other agreements  
6 may equal 100% of incurred expense. Specifications shall be  
7 prescribed by the department.

8 (4) Not less than 31-1/4% of the money in the ~~off-road-OFF-~~  
9 **HIGHWAY** vehicle account shall be used each year for enforcement of  
10 this part or the purchase of any necessary equipment used for  
11 enforcement of this part. Of the amount available for enforcement,  
12 the department shall make available 24% of the funds for  
13 distribution in the form of grants by the department to the county  
14 sheriffs' departments. The balance of the funds available shall be  
15 used by the department for the enforcement of this part or for the  
16 purchase of any necessary equipment used for the enforcement of  
17 this part. In making grants available for distribution under this  
18 subsection, the department shall consider the following factors:

19 (a) The number of miles of ~~ORV-OHV~~ trails, routes, or areas  
20 within the county.

21 (b) The number of sheriff's department employees available for  
22 enforcement of this part.

23 (c) The estimated number of ~~ORVs-OHVS~~ within the county and  
24 that are brought into the county for ~~ORV-OHV~~ use.

25 (d) The estimated number of days that ~~ORVs-OHVS~~ may be used  
26 within that county.

27 (e) Any other factors considered appropriate by the

1 department. The department shall require a county sheriff receiving  
2 a grant under this subsection to maintain records and submit an  
3 annual report to verify expenditure of grant money received.

4 (5) Not less than 12-1/2% of the revenue in the ~~off-road-OFF-~~  
5 **HIGHWAY** vehicle account shall be distributed each year in the form  
6 of grants to public agencies and nonprofit incorporated clubs and  
7 organizations for the restoration of damage that is caused by ~~ORV~~  
8 **OHV** use to natural resources on public land. A grant under this  
9 subsection may be in addition to a grant under subsection (1). An  
10 application for a grant under this subsection shall comply with  
11 subsection (2).

12 (6) Not more than 3-1/8% of the revenue in the ~~off-road-OFF-~~  
13 **HIGHWAY** vehicle account in any year shall be used for  
14 administration of this part. The department may use revenue from  
15 the funds for personnel to operate the program under this part.

16 (7) The remaining 3-1/8% of the revenue in the ~~off-road-OFF-~~  
17 **HIGHWAY** vehicle account may be used for the purposes described in  
18 subsections (1) and (4), except that 25 cents of each fee for a  
19 license sold by a dealer shall be retained by the dealer as a  
20 commission for services rendered. If the remainder of the money in  
21 the ~~off-road-OFF-HIGHWAY~~ vehicle account is used for the purposes  
22 described in subsection (4), it shall be allocated as provided in  
23 subsection (4).

24 (8) Grants under this section shall remain available until  
25 expended once a contract or commitment has been entered into under  
26 this section. A contract shall be for a period of not more than 2  
27 years. A grant not expended within the contract period may be

1 renewed by the department by entering into a new contract.

2       Sec. 81121. (1) A dealer shall maintain in safe operating  
3 condition an ~~ORV~~-OHV rented, leased, or furnished by the dealer.  
4 The dealer, dealer's agents, or employees shall explain the  
5 operation of the vehicle being rented, leased, or furnished, and if  
6 the dealer, dealer's agent, or employee believes the person to whom  
7 the vehicle is to be rented, leased, or furnished is not competent  
8 to operate the vehicle with safety to that person or others, the  
9 dealer, dealer's agent, or employee shall refuse to rent, lease, or  
10 furnish the vehicle.

11       (2) A dealer renting, leasing, or furnishing a vehicle shall  
12 carry a policy of liability insurance subject to limits, exclusive  
13 of interest and costs, with respect to the vehicle, as follows:  
14 \$20,000.00 because of bodily injury to, or death of, 1 person in  
15 any 1 accident, and \$40,000.00 because of bodily injury to, or  
16 death of, 2 or more persons in any 1 accident, and \$10,000.00  
17 because of injury to, or destruction of, property of others in any  
18 1 accident, or alternatively, the dealer shall demand and be shown  
19 proof that the person renting, leasing, or being furnished a  
20 vehicle carries a liability policy of at least the type and  
21 coverage as specified above.

22       Sec. 81122. (1) A person shall not operate an ~~ORV~~-OHV that is  
23 not registered under the code upon a public highway, street, or  
24 right-of-way of a public highway or street, except as provided in  
25 section 81131 or under the following conditions and circumstances:

26       (a) The operator of a vehicle may cross a public highway,  
27 other than a limited access highway, at right angles, for the



1 purpose of getting from 1 area to another, if the operation can be  
2 done in safety. The operator shall bring the vehicle to a complete  
3 stop before proceeding across a public highway, and shall yield the  
4 right-of-way to oncoming traffic.

5 (b) A vehicle may be operated on a street or highway for a  
6 special event of limited duration and conducted according to a  
7 prearranged schedule only under permit from the governmental unit  
8 having jurisdiction. A special event involving ~~ORVs~~**OHVs** may be  
9 conducted on the frozen surface of public waters only under permit  
10 from the department.

11 (c) A farmer, employee of a farmer, or family member of a  
12 farmer who is at least 16 years of age may operate an ~~ORV~~**OHV** on  
13 the extreme right side of a roadway or highway right-of-way when it  
14 is not practicable to operate off that roadway or highway right-of-  
15 way. Such operation shall be limited to traveling to or from the  
16 farmer's residence or work location or field during the course of  
17 farming operations. An ~~ORV~~**OHV** shall not be operated pursuant to  
18 this subdivision during the period of 30 minutes before sunset to  
19 30 minutes after sunrise, when visibility is substantially reduced  
20 due to weather conditions, or in a manner so as to interfere with  
21 traffic. The state transportation department and all of its  
22 employees are immune from tort liability for injury or damages  
23 sustained by any person arising in any way by reason of the  
24 operation or use of an ~~ORV~~**OHV** for the limited purposes allowed  
25 under this subdivision. An operator of an ~~ORV~~**OHV** under this  
26 subdivision shall have attached to the ~~ORV~~**OHV** a flag made of  
27 reflective material. The flag shall extend not less than 8 feet

1 from the surface of the roadway and not less than 4 feet above the  
2 top of the ~~ORV-OHV~~. The flag shall be not less than 12 inches high  
3 by 18 inches long. ~~and not measure less than 100 square inches.~~

4 (2) In a court action in this state where competent evidence  
5 demonstrates that a vehicle that is permitted to operate on a  
6 highway pursuant to the code is in a collision with an ~~ORV-OHV~~ on a  
7 roadway, the operator of the ~~ORV-OHV~~ involved in the collision  
8 shall be considered prima facie negligent.

9 Sec. 81123. (1) The department shall, by October 1, 1991,  
10 develop a comprehensive plan for the management of ~~ORV-OHV~~ use of  
11 areas, routes, and trails maintained by or under the jurisdiction  
12 of the department or a local unit of government pursuant to section  
13 81131. The plan shall, as a minimum, set forth the following  
14 methods and timetable:

15 (a) The inventorying, by appropriate means, of all areas,  
16 forest roads, and forest trails used by or suitable for use by ~~ORVs~~  
17 **OHVS**.

18 (b) The identification and evaluation of the suitability of  
19 areas, forest roads, and forest trails to sustain ~~ORV-OHV~~ use.

20 (c) The designation of areas, forest roads, and forest trails  
21 for ~~ORV-OHV~~ use, including use by persons with disabilities.

22 (d) The development of resource management plans to maintain  
23 areas, forest roads, or forest trails and to restore or reconstruct  
24 damaged areas, forest roads, or forest trails. The plans shall  
25 include consideration of the social, economic, and environmental  
26 impact of ~~ORV-OHV~~ use.

27 (e) Specifications for trails and areas.

~~—— (2) The plan developed under subsection (1) shall be revised every 2 years. The plan shall be submitted to the legislature for approval. The legislature shall approve the plan without amendment by concurrent resolution adopted by both standing committees of the house of representatives and senate that consider natural resources matters and both houses of the legislature by recorded vote. The department shall submit any subsequent revisions to the plan to the secretary of the senate and the clerk of the house of representatives at least 20 session days before the effective date of the revisions. If both standing committees of the house of representatives and senate that consider natural resources matters fail to reject the revisions within those 20 session days, the revisions shall be considered approved.~~

~~—— (3) The plan may designate where bicyclists, hikers, equestrians, and other nonconflicting recreation trail users may use ORV trails or areas.~~

(2) ~~(4)~~ By May 7, 1992, the department shall designate an appropriate area in the northern Lower Peninsula and an appropriate area in southeast Michigan as a scramble area.

(3) ~~(5)~~ Copies of maps of trails shall be prepared and made available by the department in sufficient quantities to accompany each ~~ORV~~-OHV certificate of title issued by the secretary of state and to place in each county sheriff's office and each department of natural resources AND ENVIRONMENT field office.

**SEC. 81125A. THE DEPARTMENT SHALL WAIVE THE REQUIREMENT FOR A PERMIT FOR AN EVENT UNDER THIS PART IF THERE ARE 75 OR FEWER VEHICLES. NEVERTHELESS, ANY GROUP HAVING 20 OR MORE VEHICLES BUT**

1 NOT MORE THAN 75 VEHICLES SHALL NOTIFY THE DEPARTMENT UNDER THIS  
2 SECTION THAT IT IS HAVING AN EVENT IN SUFFICIENT TIME TO ALLOW THE  
3 DEPARTMENT TO COORDINATE ACTIVITIES WITH OTHER GROUPS OR RIDERS.  
4 OHV USE SHALL BE CONSIDERED A LOW-INTENSITY IMPACT ON THE OHV TRAIL  
5 SYSTEM.

6 Sec. 81127. (1) Under the comprehensive system previously  
7 approved and implemented under former section 16d of 1975 PA 319,  
8 all state owned land under the jurisdiction of the department shall  
9 be closed to ~~ORV~~-OHV use except designated routes, designated  
10 trails, and designated areas. The commission shall approve any  
11 subsequent revisions to the system and shall establish an effective  
12 date for the revisions. The department shall submit the revisions  
13 approved by the commission to the secretary of the senate and the  
14 clerk of the house of representatives at least 20 session days  
15 before the effective date determined by the commission. If both  
16 standing committees of the senate and the house of representatives  
17 that primarily consider issues pertaining to the protection of  
18 natural resources fail to reject the revisions within those 20  
19 session days, the revisions shall be considered approved.

20 (2) In developing the system, the department shall consider  
21 the needs of hunters, senior citizens, and persons with  
22 disabilities.

23 Enacting section 1. Section 81128 of the natural resources and  
24 environmental protection act, 1994 PA 451, MCL 324.81128, is  
25 repealed.

26 Enacting section 2. This amendatory act does not take effect  
27 unless all of the following bills of the 95th Legislature are

1 enacted into law:

2 (a) Senate Bill No. \_\_\_\_\_ or House Bill No. 6159 (request no.  
3 04595'09).

4 (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 6161 (request no.  
5 06838'10).

6 (c) Senate Bill No. \_\_\_\_\_ or House Bill No. 6162 (request no.  
7 06839'10).