

# HOUSE BILL No. 6161

May 12, 2010, Introduced by Reps. Wayne Schmidt, Booher, Lori, Kurtz and Daley 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 81129 and 81130 (MCL 324.81129 and 324.81130), section 81129 as amended by 2008 PA 240 and section 81130 as amended by 2004 PA 587.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 81129. (1) Subject to subsections (2), (3), **AND** (17), and  
 2 ~~(18)~~, a parent or legal guardian of a child less than 16 years of  
 3 age shall not permit the child to operate an ~~ORV~~**OHV** unless the  
 4 child is under the direct visual supervision of an adult and the  
 5 child has in his or her immediate possession an ~~ORV~~**OHV** safety  
 6 certificate issued pursuant to this part or a comparable ~~ORV~~**OHV**  
 7 safety certificate issued under the authority of another state or a  
 8 province of Canada.

1           (2) Subject to subsection ~~(18)~~-(17), a parent or legal  
2 guardian of a child less than 12 years of age shall not permit the  
3 child to operate a 4-wheeled ATV, unless the child is not less than  
4 10 years of age and is on private land owned by a parent or legal  
5 guardian of the child. This subsection does not apply to the  
6 operation of an ATV used in agricultural operations.

7           (3) A parent or legal guardian of a child less than 16 years  
8 of age shall not permit the child to operate a 3-wheeled ATV.

9           (4) Subject to subsections (5), (6), **AND** (17), ~~and (18)~~, the  
10 owner or person in charge of an ~~ORV~~-OHV shall not knowingly permit  
11 the vehicle to be operated by a child less than 16 years of age  
12 unless the child is under the direct visual supervision of an adult  
13 and the child has in his or her immediate possession an ~~ORV~~-OHV  
14 safety certificate issued pursuant to this part or a comparable ~~ORV~~  
15 OHV safety certificate issued under the authority of another state  
16 or a province of Canada.

17           (5) Subject to subsection ~~(18)~~-(17), the owner or person in  
18 charge of a 4-wheeled ATV shall not knowingly permit the vehicle to  
19 be operated by a child less than 12 years of age, unless the child  
20 is not less than 10 years of age and is on private land owned by a  
21 parent or legal guardian of the child. This subsection does not  
22 apply to the operation of an ATV used in agricultural operations.

23           (6) The owner or person in charge of a 3-wheeled ATV shall not  
24 knowingly permit the vehicle to be operated by a child less than 16  
25 years of age.

26           (7) The owner or person in charge of an ~~ORV~~-OHV shall not  
27 knowingly permit the vehicle to be operated by a person who is

1 incompetent to operate the vehicle because of mental or physical  
2 disability except as provided in section 81131.

3 (8) The department shall implement a comprehensive ~~ORV-OHV~~  
4 information, safety education, and training program that shall  
5 include the training of operators and the preparation and  
6 dissemination of information and safety advice to the public. The  
7 program shall provide for the training of youthful operators and  
8 for the issuance of ~~ORV-OHV~~ safety certificates to those who  
9 successfully complete the training provided under the program and  
10 ~~may~~ **SHALL** include separate instruction for each type of ~~ORV-OHV~~.

11 (9) In implementing a program under subsection (8), the  
12 department shall cooperate with private organizations and  
13 associations, private and public corporations, the department of  
14 education, the department of state, and local governmental units.  
15 The department shall consult with ~~ORV-OHV~~ and environmental  
16 organizations and associations in regard to the subject matter of a  
17 training program and performance testing that leads to  
18 certification of ~~ORV-OHV~~ operators.

19 ~~(10) The department may designate a person it considers~~  
20 ~~qualified to provide course instruction and to award ORV safety~~  
21 ~~certificates.~~ **THE DEPARTMENT SHALL ESTABLISH A PROGRAM TO REGULATE**  
22 **THE LICENSURE AND OPERATIONS OF OHV SAFETY INSTRUCTORS. THE PROGRAM**  
23 **SHALL, AT A MINIMUM, ESTABLISH BASIC EXPERIENCE, TRAINING, AND**  
24 **FITNESS REQUIREMENTS FOR INSTRUCTORS. THE DEPARTMENT SHALL LIMIT**  
25 **THE FEES CHARGED BY OHV SAFETY TRAINING INSTRUCTORS TO NOT MORE**  
26 **THAN \$20.00 PER STUDENT. THE DEPARTMENT MAY ALLOW AN OHV SAFETY**  
27 **INSTRUCTOR TO CHARGE ADDITIONAL FEES FOR HANDS-ON INSTRUCTION TO BE**

1 PAID BY THE STUDENT AS DETERMINED APPROPRIATE BY THE DEPARTMENT.  
2 THE DEPARTMENT SHALL PROHIBIT THE IMPOSITION OF ANY ADDITIONAL FEES  
3 BY SAFETY TRAINING INSTRUCTORS OTHER THAN AS PROVIDED FOR IN THIS  
4 SUBSECTION. THE DEPARTMENT SHALL AUTHORIZE OHV SAFETY INSTRUCTORS  
5 TO ISSUE OHV SAFETY CERTIFICATES IN A FORM AND MANNER DETERMINED  
6 APPROPRIATE BY THE DEPARTMENT.

7 (11) The department may promulgate rules to implement  
8 subsections (8) to (10) and ~~(18)~~-(17).

9 (12) Subject to subsections (13), (14), **AND** (17), and ~~(18)~~, a  
10 child who is less than 16 years of age shall not operate an ~~ORV~~-OHV  
11 unless the child is under the direct visual supervision of an adult  
12 and the child has in his or her immediate possession an ~~ORV~~-OHV  
13 safety certificate issued pursuant to this section or a comparable  
14 ~~ORV~~-OHV safety certificate issued under the authority of another  
15 state or a province of Canada.

16 (13) Subject to subsection ~~(18)~~-(17), a child who is less than  
17 12 years of age shall not operate a 4-wheeled ATV, unless the child  
18 is not less than 10 years of age and is on private land owned by a  
19 parent or legal guardian of the child. This subsection does not  
20 apply to the operation of an ATV used in agricultural operations.

21 (14) A child who is less than 16 years of age shall not  
22 operate a 3-wheeled ATV.

23 (15) Subject to subsection ~~(18)~~-(17), when operating an ~~ORV~~  
24 OHV, a child who is less than 16 years of age shall present the ~~ORV~~  
25 OHV safety certificate to a peace officer upon demand.

26 (16) Notwithstanding any other provision of this section, an  
27 operator who is less than 12 years of age shall not cross a highway

1 or street. An operator who is not less than 12 years of age but  
2 less than 16 years of age may cross a highway or street or operate  
3 on the right-of-way or shoulder of roads and streets on which ~~ORV~~  
4 ~~OHV~~ use is authorized pursuant to section 81131(2), (3), or (5) if  
5 the operator has a valid ~~ORV-OHV~~ safety certificate in his or her  
6 immediate possession and meets any other requirements under this  
7 section for operation of the vehicle.

8 ~~—— (17) The requirement of possession or presentation of an ORV~~  
9 ~~safety certificate under this section does not apply until~~  
10 ~~implementation of the program for the vehicle proposed to be~~  
11 ~~operated required by subsection (8).~~

12 (17) ~~(18)~~—The requirement that a child possess an ~~ORV-OHV~~  
13 safety certificate to operate an ~~ORV-OHV~~, and the requirement that  
14 a child who is less than 12 years of age not operate a 4-wheeled  
15 ATV unless the child is not less than 10 years of age and is on  
16 private land owned by a parent or legal guardian of the child, do  
17 not apply if all of the following requirements are met:

18 (a) The child is participating in an organized ~~ORV-OHV~~ riding  
19 or racing event held on land not owned by this state.

20 (b) The child's parent or legal guardian has provided the  
21 event organizer with written permission for the child to  
22 participate in the event.

23 (c) The event organizer has not less than \$500,000.00  
24 liability insurance coverage for the event.

25 (d) A physician or physician's assistant licensed or otherwise  
26 authorized under part 170 or 175 of the public health code, 1978 PA  
27 368, MCL 333.17001 to 333.17084 and 333.17501 to 333.17556, or a

1 paramedic or emergency medical technician licensed under part 209  
2 of the public health code, 1978 PA 368, MCL 333.20901 to 333.20979,  
3 is present at the site of the event or available on call.

4 (e) The event is at all times under the direct visual  
5 supervision of adult staff of the event organizer and a staff  
6 member serves as a flagger to warn ~~ORV-OHV~~ riders if another ~~ORV~~  
7 ~~OHV~~ rider is injured or an ~~ORV-OHV~~ is inoperable in the ~~ORV-OHV~~  
8 operating area.

9 (f) Fencing or another means of crowd control is used to keep  
10 spectators out of the ~~ORV-OHV~~ operating area.

11 (g) If the event is on a closed course, dust is controlled in  
12 the ~~ORV-OHV~~ operating area and the riding surface in the ~~ORV-OHV~~  
13 operating area is otherwise properly prepared.

14 (h) Three-wheeled ATVs are not used by participants.

15 (i) Any ATVs used by participants are equipped with a side  
16 step bar or comparable safety equipment and with a tether kill  
17 switch, and the tether is used by all participants.

18 (j) Each participant in the event wears a crash helmet  
19 approved by the United States department of transportation, a  
20 protective long-sleeved shirt or jacket, long pants, boots, and  
21 protective gloves.

22 (k) Any other applicable requirements of this part or rules  
23 promulgated under this part are met.

24 **(18)** ~~(19)~~—If a child less than 16 years of age participates  
25 and is injured in an organized ~~ORV-OHV~~ riding or racing event, the  
26 organizer of the event shall, within 30 days after the event,  
27 submit to the department a report on a form developed by the

1 department. The report shall include all of the following, as  
2 applicable:

3 (a) Whether any participant less than 16 years of age was  
4 killed or suffered an injury resulting in transportation to a  
5 hospital as a result of an ~~ORV-OHV~~ accident at the event.

6 (b) The age of the child.

7 (c) Whether the child had been issued an ~~ORV-OHV~~ safety  
8 certificate under this part or a comparable ~~ORV-OHV~~ safety  
9 certificate issued under the authority of another state or a  
10 province of Canada.

11 (d) The type of ~~ORV-OHV~~ operated.

12 (e) A description of the accident and injury.

13 ~~(19)~~ ~~(20)~~ By December 31 of each year, the department shall  
14 submit to the legislature a report that summarizes reports received  
15 under subsection ~~(19)~~ ~~(18)~~ during the preceding calendar year. In  
16 the report, the department may recommend amendments to this part to  
17 improve the safety of children less than 16 years of age  
18 participating in organized ~~ORV-OHV~~ riding or racing events.

19 ~~(20)~~ ~~(21)~~ The requirements of this section are in addition to  
20 any applicable requirements of section 81131(9).

21 Sec. 81130. (1) A person who is under 16 years of age, before  
22 operating an ATV or ~~ORV-OHV~~, shall complete an ~~ORV-OHV~~ safety  
23 education course approved by the department. This course may  
24 include a written examination and a driving test designed to test  
25 the competency of the applicant. **THE FEE FOR CLASSROOM INSTRUCTION**  
26 **FOR THE SAFETY EDUCATION COURSE SHALL NOT EXCEED \$20.00 FOR EACH**  
27 **STUDENT. A PARENT OR LEGAL GUARDIAN OF A PERSON LESS THAN 16 YEARS**

1 OF AGE MAY ATTEND FREE OF CHARGE UNLESS THE PARENT OR LEGAL  
2 GUARDIAN IS ATTENDING FOR PURPOSES OF RECEIVING AN OHV SAFETY  
3 CERTIFICATE. Upon successful completion of this safety education  
4 course, a person shall receive an ~~ORV~~-OHV safety certificate.

5 ~~—— (2) A safety education course conducted by a college or~~  
6 ~~university, an intermediate school district, a local school~~  
7 ~~district, a law enforcement agency, or another governmental agency~~  
8 ~~located in this state or by a department approved nonprofit service~~  
9 ~~organization shall be conducted in compliance with this section. An~~  
10 ~~agency or a school conducting a course under this subsection may~~  
11 ~~apply to the department for a grant from the off road vehicle~~  
12 ~~account for costs associated with conducting a course.~~

13 ~~—— (3) Except for a course conducted by a private business~~  
14 ~~enterprise as provided by subsection (4), an applicant for a safety~~  
15 ~~education course under this section shall pay not more than a~~  
16 ~~\$25.00 course fee or in the case of a university or community~~  
17 ~~college a fee not more than the cost of 1 credit hour of~~  
18 ~~instruction. The course fees shall only be used for funding the~~  
19 ~~administration and implementation of the course.~~

20 ~~—— (4) An ATV or ORV, or both, safety education course required~~  
21 ~~by this section and approved by the department may be conducted by~~  
22 ~~a private business enterprise. A private business enterprise may~~  
23 ~~charge a course fee not to exceed the cost of conducting the~~  
24 ~~course.~~

25 ~~—— (5) The director shall designate a person to be the state~~  
26 ~~coordinator of the ATV and ORV safety education program. A person~~  
27 ~~designated under this subsection shall have successfully completed~~

1 ~~ATV and ORV safety courses.~~

2 ~~—— (6) The director shall designate a person who has successfully~~  
3 ~~completed ATV and ORV safety courses to perform annual inspections~~  
4 ~~of course sites.~~

5 (2) THE DEPARTMENT SHALL ESTABLISH AN OHV SAFETY TRAINING  
6 ACADEMY WITHIN 90 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY  
7 ACT THAT ADDED THIS SUBSECTION. THE DEPARTMENT SHALL APPOINT A  
8 CHIEF OHV TRAINING INSTRUCTOR FOR THE ACADEMY. AN INDIVIDUAL WHO  
9 BECOMES AN OHV INSTRUCTOR AFTER THE EFFECTIVE DATE OF THE  
10 AMENDATORY ACT THAT ADDED THIS SUBSECTION SHALL SUCCESSFULLY  
11 COMPLETE A COURSE OF INSTRUCTION AT THE OHV SAFETY TRAINING ACADEMY  
12 BEFORE BEING CERTIFIED AS AN OHV INSTRUCTOR. THE COURSE OF  
13 INSTRUCTION AT THE OHV SAFETY TRAINING ACADEMY SHALL INCLUDE ALL  
14 TRAINING REQUIRED UNDER A NATIONALLY RECOGNIZED OHV SAFETY TRAINING  
15 COURSE. THE OHV SAFETY TRAINING ACADEMY SHALL NOT CHARGE A FEE FOR  
16 INSTRUCTOR TRAINING.

17 (3) AN INDIVIDUAL WHO IS AN OHV INSTRUCTOR ON THE EFFECTIVE  
18 DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION SHALL  
19 COMPLETE THE INSTRUCTOR TRAINING REQUIRED UNDER SUBSECTION (2)  
20 WITHIN 2 YEARS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT  
21 ADDED THIS SUBSECTION.

22 (4) ALL OF THE FOLLOWING APPLY TO AN OHV INSTRUCTOR PROGRAM  
23 OFFERED BY THE OHV SAFETY TRAINING ACADEMY UNDER SUBSECTIONS (1)  
24 AND (2):

25 (A) AN INDIVIDUAL SEEKING CERTIFICATION AS AN OHV INSTRUCTOR  
26 SHALL SUBMIT TO A CRIMINAL BACKGROUND CHECK BEFORE ADMISSION TO THE  
27 OHV SAFETY TRAINING ACADEMY.

1 (B) THE CLASS SIZE AT THE OHV SAFETY TRAINING ACADEMY SHALL BE  
2 LIMITED TO NOT MORE THAN 30 STUDENTS FOR EACH INSTRUCTOR.

3 (C) THE DEPARTMENT SHALL PROVIDE INSTRUCTOR MANUALS THAT  
4 HIGHLIGHT THE MATERIAL TO BE COVERED IN THE CLASSROOM. THE  
5 DEPARTMENT SHALL MEET ANNUALLY WITH OHV USER GROUPS TO UPDATE THE  
6 TRAINING MATERIAL TO THE MOST CURRENT AND SUITABLE METHODS. A  
7 SECTION OF THE OHV INSTRUCTOR MANUAL SHALL BE DEVOTED TO THE  
8 RESPONSIBLE USE OF AN OHV AND SHALL BE UPDATED AS CONSIDERED  
9 NECESSARY BY THE DEPARTMENT.

10 (5) THE DEPARTMENT SHALL DEVELOP AND IMPLEMENT AN OHV TRAINING  
11 PROGRAM THAT INCLUDES ACTUAL OPERATION OF OHVS AS PART OF THE  
12 TRAINING CURRICULUM WITHIN 2 YEARS AFTER THE EFFECTIVE DATE OF THE  
13 AMENDATORY ACT THAT ADDED THIS SUBSECTION. ALL PROGRAMS CONDUCTED  
14 BY CERTIFIED INSTRUCTORS FOR THE MOTORCYCLE SAFETY FOUNDATION, THE  
15 SAFETY VEHICLE INSTITUTE OF AMERICA, THE UNITED FOUR WHEEL DRIVE  
16 ASSOCIATION, AND THE RECREATIONAL OFF-HIGHWAY VEHICLE ASSOCIATION  
17 SHALL BE RECOGNIZED DURING THE INTERIM PERIOD.

18 Enacting section 1. This amendatory act does not take effect  
19 unless all of the following bills of the 95th Legislature are  
20 enacted into law:

21 (a) Senate Bill No.\_\_\_\_ or House Bill No.\_\_\_\_ (request no.  
22 04595'10).

23 (b) Senate Bill No.\_\_\_\_ or House Bill No.\_\_\_\_ (request no.  
24 06837'10).

25 (c) Senate Bill No.\_\_\_\_ or House Bill No.\_\_\_\_ (request no.  
26 06839'10).