

HOUSE BILL No. 4925

September 8, 2011, Introduced by Reps. Bumstead, Ananich, Lyons, Wayne Schmidt, Haugh, Liss, Yonker, Agema, Damrow, Poleski, Huuki and Kowall and referred to the Committee on Natural Resources, Tourism, and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 81131 (MCL 324.81131), as amended by 2009 PA
175.

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~~ **SUBSECTION (4)**, A
5 county board of commissioners ~~of an eligible county~~ may adopt an
6 ordinance authorizing the operation of ORVs on the maintained
7 portion of 1 or more roads located within the county. Not less than
8 45 days before a public hearing on the ordinance, the county clerk

1 shall send notice of the public hearing, by certified mail, to the
2 county road commission and, if state forestland is located within
3 the county, to the department.

4 (3) Subject to ~~subsections (4) and (7), beginning July 17,~~
5 ~~2009, the~~ **SUBSECTION (4), A** township board ~~of a township located in~~
6 ~~an eligible county~~ may adopt an ordinance authorizing the operation
7 of ORVs on the maintained portion of 1 or more roads located within
8 the township. Not less than 28 days before a public hearing on the
9 ordinance, the township clerk shall send notice of the public
10 hearing, by certified mail, to the county road commission and, if
11 state forestland is located within the township, to the department.
12 **IF A TOWNSHIP IS LOCATED IN A COUNTY THAT WAS FIRST AUTHORIZED TO**
13 **ADOPT AN ORDINANCE UNDER SUBSECTION (2) BY THE 2011 AMENDATORY ACT**
14 **THAT AMENDED THIS SECTION, THIS SUBSECTION DOES NOT APPLY TO THE**
15 **TOWNSHIP UNTIL 1 YEAR AFTER THE EFFECTIVE DATE OF THE 2011**
16 **AMENDATORY ACT THAT AMENDED THIS SECTION.**

17 (4) The board of county road commissioners may close a road to
18 the operation of ORVs under subsection (2) or (3) to protect the
19 environment or if the operation of ORVs under subsection (2) or (3)
20 poses a particular and demonstrable threat to public safety. A
21 county road commission shall not under this subsection close more
22 than 30% of the linear miles of roads located within the county to
23 the operation of ORVs under subsection (2) or (3). The township
24 board of a township ~~located in an eligible county~~ may adopt an
25 ordinance to close a road to the operation of ORVs under subsection
26 (2).

27 (5) ~~Subject to subsection (7), the~~ **THE** legislative body of a

1 municipality ~~located in an eligible county~~ may adopt an ordinance
2 authorizing the operation of ORVs on the maintained portion of 1 or
3 more streets within the municipality.

4 (6) Subject to ~~subsections (4) and (7)~~, **SUBSECTION (4)**, if a
5 local unit of government adopts an ordinance pursuant to subsection
6 (2), (3), or (5), a person may operate an ORV with the flow of
7 traffic on the far right of the maintained portion of the road or
8 street covered by the ordinance. A person shall not operate an ORV
9 pursuant to subsection (2), (3), or (5) at a speed greater than 25
10 miles per hour or a lower posted ORV speed limit or in a manner
11 that interferes with traffic on the road or street.

12 (7) Unless the person possesses a license as defined in
13 section 25 of the Michigan vehicle code, 1949 PA 300, MCL 257.25, a
14 person shall not operate an ORV pursuant to subsection (2), (3), or
15 (5) if the ORV is registered as a motor vehicle under chapter II of
16 the Michigan vehicle code, 1949 PA 300, MCL 257.201 to 257.259, and
17 either is more than 60 inches wide or has 3 wheels. ORVs operated
18 pursuant to subsection (2), (3), or (5) shall travel single file,
19 except that an ORV may travel abreast of another ORV when it is
20 overtaking and passing, or being overtaken and passed by, another
21 ORV.

22 ~~—— (7) Subsections (2) to (6) and an ordinance adopted under~~
23 ~~subsection (2), (3), or (5) do not apply after July 16, 2013.~~

24 (8) ~~In addition to any applicable requirement of section~~
25 ~~81133(e), a person shall not operate an ORV pursuant to this~~
26 ~~section when visibility is substantially reduced due to weather~~
27 ~~conditions without displaying a lighted headlight and lighted~~

1 ~~taillight. Beginning January 1, 2010, a~~ A person shall not operate
2 an ORV pursuant to this section without displaying a lighted
3 headlight and lighted taillight.

4 (9) A person under 18 years of age shall not operate an ORV
5 pursuant to this section unless the person is in possession of a
6 valid driver license or under the direct supervision of a parent or
7 guardian and the person has in his or her immediate possession an
8 ORV safety certificate issued pursuant to this part or a comparable
9 ORV safety certificate issued under the authority of another state
10 or a province of Canada. A person under 12 years of age shall not
11 operate an ORV pursuant to this section. The requirements of this
12 subsection are in addition to any applicable requirements of
13 section 81129.

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

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

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

24 (1).

25 (11) Beginning October 19, 1993, a board of county road
26 commissioners, a county board of commissioners, and a county are,
27 and, beginning on April 25, 1995, a municipality is, immune from

1 tort liability for injuries or damages sustained by any person
2 arising in any way out of the operation or use of an ORV on
3 maintained or unmaintained roads, streets, shoulders, and rights-
4 of-way over which the board of county road commissioners, the
5 county board of commissioners, or the municipality has
6 jurisdiction. The immunity provided by this subsection does not
7 apply to actions that constitute gross negligence. As used in this
8 subsection, "gross negligence" means conduct so reckless as to
9 demonstrate a substantial lack of concern for whether an injury
10 results.

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

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

24 (14) The treasurer of the local unit of government shall
25 deposit fines collected by that local unit of government under
26 section 8379 of the revised judicature act of 1961, 1961 PA 236,
27 MCL 600.8379, and subsection (13) and damages collected under

subsection (13) into a fund to be designated as the "ORV fund". The legislative body of the local unit of government shall appropriate revenue in the ORV fund as follows:

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

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

(15) As used in this section:

~~(a) "Eligible county" means any of the following:~~

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

~~(ii) Huron, Tuscola, Sanilac, Saginaw, Gratiot, Montcalm, or St. Clair county.~~

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

(B) ~~(c)~~ "Municipality" means a city or village.

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

(D) ~~(e)~~ "Street" means a city or village major street or city or village local street as described in section 9 of 1951 PA 51,

1 MCL 247.659.