

SENATE BILL No. 151

February 16, 2011, Introduced by Senator HANSEN and referred to the Committee on Outdoor Recreation and Tourism.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 81133 (MCL 324.81133), as amended by 2008 PA
365.

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 **THE REQUIREMENTS OF THIS** subdivision ~~does~~ **DO** not apply ~~if the~~ **TO**

EITHER OF THE FOLLOWING:

(i) **THE OPERATOR OR A PASSENGER IN A** vehicle **THAT** is equipped with a roof that meets or exceeds standards for a crash helmet ~~and~~ **IF** the operator and ~~each passenger is~~ **ALL PASSENGERS ARE** wearing a properly adjusted and fastened safety ~~belt~~ **BELTS**.

(ii) **THE OPERATOR OR A PASSENGER IN AN ORV THAT IS OPERATED ON PRIVATE LAND AT A SPEED NOT GREATER THAN 25 MILES PER HOUR.**

(c) During the hours of 1/2 hour after sunset to 1/2 hour before sunrise without displaying a lighted headlight and lighted taillight. The requirements of this subdivision are in addition to any applicable requirements of section 81131(8).

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

(e) In a state game area or state park or recreation area, except on roads, trails, or areas designated for this purpose; on state owned lands under the control of the department other than game areas, state parks, or recreational areas where the operation would be in violation of rules promulgated by the department; in a forest nursery or planting area; on public lands posted or reasonably identifiable as an area of forest reproduction, and when

1 growing stock may be damaged; in a dedicated natural area of the
2 department; or in any area in such a manner as to create an erosive
3 condition, or to injure, damage, or destroy trees or growing crops.
4 However, the department may permit an owner and guests of the owner
5 to use an ORV within the boundaries of a state forest in order to
6 access the owner's property.

7 (f) On the frozen surface of public waters within 100 feet of
8 a person not in or upon a vehicle, or within 100 feet of a fishing
9 shanty or shelter or an area that is cleared of snow for skating
10 purposes, except at the minimum speed required to maintain
11 controlled forward movement of the vehicle, or as may be authorized
12 by permit in special events.

13 (g) Unless the vehicle is equipped with a spark arrester type
14 United States forest service approved muffler, in good working
15 order and in constant operation. Exhaust noise emission shall not
16 exceed 86 Db(A) or 82 Db(A) on a vehicle manufactured after January
17 1, 1986, when the vehicle is under full throttle, traveling in
18 second gear, and measured 50 feet at right angles from the vehicle
19 path with a sound level meter that meets the requirement of ANSI
20 S1.4 1983, using procedure and ancillary equipment therein
21 described; or 99 Db(A) or 94 Db(A) on a vehicle manufactured after
22 January 1, 1986, or that level comparable to the current sound
23 level as provided for by the United States environmental protection
24 agency when tested according to the provisions of the current SAE
25 J1287, June 86 test procedure for exhaust levels of stationary
26 motorcycles, using sound level meters and ancillary equipment
27 therein described. A vehicle subject to this part, manufactured or

1 assembled after December 31, 1972 and used, sold, or offered for
2 sale in this state, shall conform to the noise emission levels
3 established by the United States environmental protection agency
4 under the noise control act of 1972, 42 USC 4901 to 4918.

5 (h) Within 100 feet of a dwelling at a speed greater than the
6 minimum required to maintain controlled forward movement of the
7 vehicle, except on property owned or under the operator's control
8 or on which the operator is an invited guest, or on a roadway,
9 forest road, or forest trail maintained by or under the
10 jurisdiction of the department, or on a road or street on which ORV
11 use is authorized ~~pursuant to~~ **UNDER** section 81131(2), (3), or (5).

12 (i) In or upon the lands of another without the written
13 consent of the owner, the owner's agent, or a lessee, when required
14 by part 731. The operator of the vehicle is liable for damage to
15 private property, including, but not limited to, damage to trees,
16 shrubs, or growing crops, injury to other living creatures, or
17 damage caused through vehicle operation in a manner so as to create
18 erosive or other ecological damage. The owner of the private
19 property may recover from the person responsible nominal damages of
20 not less than the amount of damage or injury. Failure to post
21 private property or fence or otherwise enclose in a manner to
22 exclude intruders or of the private property owner or other
23 authorized person to personally communicate against trespass does
24 not imply consent to ORV use.

25 (j) In an area on which public hunting is permitted during the
26 regular November firearm deer season from 7 a.m. to 11 a.m. and
27 from 2 p.m. to 5 p.m., except during an emergency or for law

1 enforcement purposes, to go to and from a permanent residence or a
2 hunting camp otherwise inaccessible by a conventional wheeled
3 vehicle, to remove from public land a deer, elk, or bear that has
4 been taken under a valid license; except for the conduct of
5 necessary work functions involving land and timber survey,
6 communication and transmission line patrol, and timber harvest
7 operations; or except on property owned or under control of the
8 operator or on which the operator is an invited guest. A hunter
9 removing game under this subdivision may leave the designated trail
10 or forest road only to retrieve the game ~~and shall not exceed~~ **BUT**
11 **SHALL NOT OPERATE THE ORV AT A SPEED GREATER THAN** 5 miles per hour.
12 A vehicle registered under the code is exempt from this subdivision
13 while operating on a public highway or public or private road
14 capable of sustaining automobile traffic. 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 through use of a designated trail or
18 forest road, is exempt from this subdivision. A person holding a
19 valid permit to hunt from a standing vehicle issued under part 401,
20 or a person with disabilities using an ORV to access public lands
21 for purposes of hunting or fishing, may display a flag, the color
22 of which the department shall determine, to identify himself or
23 herself as a person with disabilities or a person holding a permit
24 to hunt from a standing vehicle under part 401.

25 (k) While transporting on the vehicle a bow unless unstrung or
26 encased, or a firearm unless unloaded and securely encased, or
27 equipped with and made inoperative by a manufactured keylocked

1 trigger housing mechanism.

2 (l) On or across a cemetery or burial ground, or land used as
3 an airport.

4 (m) Within 100 feet of a slide, ski, or skating area, unless
5 the vehicle is being used for the purpose of servicing the area or
6 is being operated ~~pursuant to~~ **UNDER** section 81131(2), (3), or (5).

7 (n) On an operating or nonabandoned railroad or railroad
8 right-of-way, or public utility right-of-way, other than for the
9 purpose of crossing at a clearly established site intended for
10 vehicular traffic, except railroad, public utility, or law
11 enforcement personnel while in performance of their duties, and
12 except if the right-of-way is designated as provided for in section
13 81127.

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

17 (p) To hunt, pursue, worry, kill, or attempt to hunt, pursue,
18 worry, or kill an animal, whether wild or domesticated.

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

20 (r) In a manner contrary to operating regulations on public
21 lands.

22 (s) While transporting or possessing, in or on the vehicle,
23 alcoholic liquor in a container that is open or uncapped or upon
24 which the seal is broken, except under either of the following
25 circumstances:

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

1 (ii) If the vehicle does not have a trunk or compartment
2 separate from the passenger compartment, the container is encased
3 or enclosed.

4 (t) While transporting any passenger in or upon an ORV unless
5 the manufacturing standards for the vehicle make provisions for
6 transporting passengers.

7 (u) On adjacent private land, in an area zoned residential,
8 within 300 feet of a dwelling at a speed greater than the minimum
9 required to maintain controlled forward movement of the vehicle
10 except on a roadway, forest road, or forest trail maintained by or
11 under the jurisdiction of the department, or on a road or street on
12 which ORV use is authorized ~~pursuant to~~ **UNDER** section 81131(2),
13 (3), or (5).