

SUBSTITUTE FOR
HOUSE BILL NO. 5191

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 81133 and 81147 (MCL 324.81133 and 324.81147),
section 81133 as amended by 2013 PA 249 and section 81147 as
amended by 2013 PA 119.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 81133. (1) An individual 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 individual and any passenger in or on the~~
6 ~~vehicle is wearing on his or her head a crash helmet and protective~~
7 ~~eyewear approved by the United States department of transportation.~~
8 ~~This subdivision does not apply to either of the following:~~

9 ~~—— (i) The operator of or a passenger in a vehicle that is~~

1 ~~equipped with a roof that meets or exceeds standards for a crash~~
2 ~~helmet if the operator and each passenger is wearing a properly~~
3 ~~adjusted and fastened safety belt.~~

4 ~~—— (ii) The operator of or a passenger in an ORV that is operated~~
5 ~~on a state licensed game bird hunting preserve at a speed of not~~
6 ~~greater than 10 miles per hour.~~

7 (B) ~~(e)~~ During the hours of 1/2 hour after sunset to 1/2 hour
8 before sunrise without displaying a lighted headlight and lighted
9 taillight. The requirements of this subdivision are in addition to
10 any applicable requirements of section 81131(12).

11 (C) ~~(d)~~ Unless **THE VEHICLE IS** equipped with a braking system
12 that may be operated by hand or foot, capable of producing
13 deceleration at 14 feet per second on level ground at a speed of 20
14 miles per hour; a brake light, brighter than the taillight, visible
15 from behind the vehicle when the brake is activated, if the vehicle
16 is operated during the hours of 1/2 hour after sunset and 1/2 hour
17 before sunrise; and a throttle so designed that when the pressure
18 used to advance the throttle is removed, the engine speed will
19 immediately and automatically return to idle.

20 (D) ~~(e)~~ In a state game area or state park or recreation area,
21 except on roads, trails, or areas designated for this purpose; on
22 other state-owned lands under the control of the department where
23 the operation would be in violation of rules promulgated by the
24 department; in a forest nursery or planting area; on public lands
25 posted or reasonably identifiable as an area of forest
26 reproduction, and when growing stock may be damaged; in a dedicated
27 natural area of the department; or in any area in such a manner as

1 to create an erosive condition, or to injure, damage, or destroy
2 trees or growing crops. However, the department may permit an owner
3 and guests of the owner to use an ORV within the boundaries of a
4 state forest in order to access the owner's property.

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

11 (F) ~~(g)~~—Unless the vehicle is equipped with a spark arrester
12 type United States forest service approved muffler, in good working
13 order and in constant operation. Exhaust noise emission shall not
14 exceed 86 Db(A) or 82 Db(A) on a vehicle manufactured after January
15 1, 1986, when the vehicle is under full throttle, traveling in
16 second gear, and measured 50 feet at right angles from the vehicle
17 path with a sound level meter that meets the requirement of ANSI
18 S1.4 1983, using procedure and ancillary equipment therein
19 described; or 99 Db(A) or 94 Db(A) on a vehicle manufactured after
20 January 1, 1986, or that level comparable to the current sound
21 level as provided for by the United States environmental protection
22 agency when tested according to the provisions of the current SAE
23 J1287, June 86 test procedure for exhaust levels of stationary
24 motorcycles, using sound level meters and ancillary equipment
25 therein described. A vehicle subject to this part, manufactured or
26 assembled after December 31, 1972 and used, sold, or offered for
27 sale in this state, shall conform to the noise emission levels

1 established by the United States environmental protection agency
2 under the noise control act of 1972, 42 USC 4901 to 4918.

3 (G) ~~(h)~~—Within 100 feet of a dwelling at a speed greater than
4 the minimum required to maintain controlled forward movement of the
5 vehicle, except under any of the following circumstances:

6 (i) On property owned by or under the operator's control or on
7 which the operator is an invited guest.

8 (ii) On a forest road or forest trail if the forest road or
9 forest trail is maintained by or under the jurisdiction of the
10 department.

11 (iii) On a street, county road, or highway on which ORV use is
12 authorized pursuant to section 81131(2), (3), (5), or (6).

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

25 (I) ~~(j)~~—In an area on which public hunting is permitted during
26 the regular November firearm deer season, from 7 a.m. to 11 a.m.
27 and 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, or to remove from public land a deer, elk, or bear that
4 has been taken under a valid license; except to conduct necessary
5 work functions involving land and timber survey, communication and
6 transmission line patrol, or timber harvest operations; or except
7 on property owned or under control of the operator or on which the
8 operator is an invited guest. A hunter removing game under this
9 subdivision may leave the designated trail or forest road only to
10 retrieve the game and shall not exceed 5 miles per hour. A vehicle
11 registered under the code is exempt from this subdivision while
12 operating on a private road capable of sustaining automobile
13 traffic or a street, county road, or highway. A person holding a
14 valid permit to hunt from a standing vehicle issued under part 401,
15 or a person with a disability using an ORV to access public lands
16 for purposes of hunting or fishing through use of a designated
17 trail or forest road, is exempt from this subdivision. An
18 individual holding a valid permit to hunt from a standing vehicle
19 issued under part 401, or a person with a disability using an ORV
20 to access public lands for purposes of hunting or fishing, may
21 display a flag, the color of which the department shall determine,
22 to identify himself or herself as a person with a disability or an
23 individual holding a permit to hunt from a standing vehicle under
24 part 401.

25 (J) ~~(K)~~—Except as otherwise provided in section 40111(3) or
26 (4), while transporting on the vehicle a bow unless unstrung or
27 encased, or a firearm unless unloaded and securely encased, or

1 equipped with and made inoperative by a manufactured keylocked
2 trigger housing mechanism.

3 (K) ~~(H)~~—On or across a cemetery or burial ground, or land used
4 as an airport.

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

9 (M) ~~(n)~~—On an operating or nonabandoned railroad or railroad
10 right-of-way, or public utility right-of-way, other than for the
11 purpose of crossing at a clearly established site intended for
12 vehicular traffic, except railroad, public utility, or law
13 enforcement personnel while in performance of their duties, and
14 except if the right-of-way is designated as provided for in section
15 81127.

16 (N) ~~(o)~~—In or upon the waters of any stream, river, bog,
17 wetland, swamp, marsh, or quagmire except over a bridge, culvert,
18 or similar structure.

19 (O) ~~(p)~~—To hunt, pursue, worry, kill, or attempt to hunt,
20 pursue, worry, or kill an animal, whether wild or domesticated.

21 (P) ~~(q)~~—In a manner so as to leave behind litter or other
22 debris.

23 (Q) ~~(r)~~—On public land, in a manner contrary to operating
24 regulations.

25 (R) ~~(s)~~—While transporting or possessing, in or on the
26 vehicle, alcoholic liquor in a container that is open or uncapped
27 or upon which the seal is broken, except under either of the

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1 following circumstances:

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

4 (ii) If the vehicle does not have a trunk or compartment
5 separate from the passenger compartment, the container is encased
6 or enclosed.

7 **(S)** ~~(t)~~—While transporting any passenger in or upon an ORV
8 unless the manufacturing standards for the vehicle make provisions
9 for transporting passengers.

10 **(T)** ~~(u)~~—On adjacent private land, in an area zoned
11 residential, within 300 feet of a dwelling at a speed greater than
12 the minimum required to maintain controlled forward movement of the
13 vehicle except under any of the following circumstances:

14 (i) On a forest road or forest trail if the forest road or
15 forest trail is maintained by or under the jurisdiction of the
16 department.

17 (ii) On a street, county road, or highway on which ORV use is
18 authorized under section 81131(2), (3), (5), or (6).

19 **(U)** ~~(v)~~—On a forest trail if the ORV is greater than 50 inches
20 in width.

21 **(2) AN INDIVIDUAL WHO IS OPERATING OR IS A PASSENGER ON AN ORV**
22 **SHALL WEAR A CRASH HELMET AND PROTECTIVE EYEWEAR THAT ARE APPROVED**
23 **BY THE UNITED STATES DEPARTMENT OF TRANSPORTATION. THIS SUBSECTION**
24 **DOES NOT APPLY TO ANY OF THE FOLLOWING:**

25 **(A) AN INDIVIDUAL WHO OWNS THE PROPERTY ON WHICH THE ORV IS**
26 **OPERATING[, IS A FAMILY MEMBER OF THE OWNER AND RESIDES AT THAT PROPERTY,**
27 **OR IS AN INVITED GUEST OF AN INDIVIDUAL WHO OWNS THE PROPERTY].**

(B) AN INDIVIDUAL WEARING A PROPERLY ADJUSTED AND FASTENED

1 SAFETY BELT IF THE ORV IS EQUIPPED WITH A ROOF THAT MEETS OR
2 EXCEEDS UNITED STATES DEPARTMENT OF TRANSPORTATION STANDARDS FOR A
3 CRASH HELMET.

4 (C) AN ORV OPERATED ON A STATE-LICENSED GAME BIRD HUNTING
5 PRESERVE AT A SPEED OF NOT GREATER THAN 10 MILES PER HOUR.

6 (3) ~~(2)~~—Each person who participates in the sport of ORV
7 riding accepts the risks associated with that sport insofar as the
8 dangers are inherent. Those risks include, but are not limited to,
9 injuries to persons or property that can result from variations in
10 terrain; defects in traffic lanes; surface or subsurface snow or
11 ice conditions; bare spots; rocks, trees, and other forms of
12 natural growth or debris; and collisions with fill material, decks,
13 bridges, signs, fences, trail maintenance equipment, or other ORVs.
14 Those risks do not include injuries to persons or property that
15 result from the use of an ORV by another person in a careless or
16 negligent manner likely to endanger person or property. When an ORV
17 is operated in the vicinity of a railroad right-of-way, each person
18 who participates in the sport of ORV riding additionally assumes
19 risks including, but not limited to, entanglement with railroad
20 tracks, switches, and ties and collisions with trains and train-
21 related equipment and facilities.

22 Sec. 81147. (1) Except as otherwise provided in this part, a
23 person who violates this part is guilty of a misdemeanor punishable
24 by imprisonment for not more than 90 days or a fine of not less
25 than \$50.00 or more than \$1,000.00, or both, for each violation.

26 (2) A person who violates section ~~81133(1)(e)~~ **81133(1)(D)** by
27 operating an ORV in such a manner as to create an erosive condition

1 or who violates section ~~81133(1)(i)~~ **81133(1)(H)** or ~~(e)~~ **(N)** is
2 guilty of a misdemeanor punishable by imprisonment for not more
3 than 90 days or a fine of not less than \$250.00 or more than
4 \$1,000.00, or both, for each violation.

5 (3) A person who violates section 81105, 81107, 81115, 81116,
6 81121, 81130, ~~or 81133(1)(b), (c), (d), (E), (f), (g), (h), (j),~~
7 **(I), (K), OR (l)**, or ~~(m)~~ **81133(2)** is responsible for a state civil
8 infraction and may be ordered to pay a civil fine of not more than
9 \$500.00.

10 (4) A person shall not remove, deface, or destroy a sign or
11 marker placed by the department indicating the boundaries of an ORV
12 trail or area or that marks a route.

13 (5) In addition to the penalties otherwise provided under this
14 part, a court of competent jurisdiction may order a person to
15 restore, as nearly as possible, any land, water, stream bank,
16 streambed, or other natural or geographic formation damaged by the
17 violation of this part to the condition it was in before the
18 violation occurred.

19 (6) The department or any other peace officer may impound the
20 ORV of a person who commits a violation of this part that is
21 punishable as a misdemeanor or who causes damage to the particular
22 area in which the ORV was used in the commission of the violation.

23 (7) Upon conviction of a person for violation described in
24 subsection (6), a court of competent jurisdiction may order the ORV
25 and any personal property on the ORV seized as a result of the
26 violation returned to the owner or, upon recommendation of the
27 local prosecuting attorney, turned over to the department. An ORV

1 or any other property turned over to the department under this
2 subsection shall be disposed of in the manner provided for
3 condemnation of property in part 16. The proceeds realized by the
4 department under this subsection shall first be used to restore
5 areas damaged by ORV use, ~~with the~~ **AND ANY** balance ~~to~~ **SHALL** be
6 deposited in the off-road vehicle account.