

HOUSE BILL No. 5361

February 25, 2014, Introduced by Reps. Smiley, Faris, Phelps, Daley, Lauwers, Brunner, Rendon, Brown, LaFontaine, Bumstead, Potvin, Kelly, LaVoy, Lamonte, Driskell, Dianda, Dillon and Brinks and referred to the Committee on Natural Resources.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 40111 and 81133 (MCL 324.40111 and 324.81133),
section 40111 as amended by 2012 PA 340 and section 81133 as
amended by 2013 PA 249.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 40111. (1) Except as otherwise provided in subsection
2 (3), ~~or~~ (4), **OR (5)**, this part, or in a department order authorized
3 under section 40107, an individual shall not take an animal from in
4 or upon a vehicle.

5 (2) Except as otherwise provided in subsection (3), ~~or~~ (4), **OR**
6 (5), this part, or in a department order authorized under section
7 40107, an individual shall not transport or possess a firearm in or

1 upon a vehicle, unless the firearm is unloaded in both barrel and
2 magazine and enclosed in a case, carried in the trunk of a vehicle,
3 or unloaded in a motorized boat.

4 (3) A person with a disability may transport or possess a
5 firearm in or upon a vehicle, except for a car or truck, on a state
6 licensed game bird hunting preserve if the firearm is unloaded and
7 the vehicle is operated at a speed of not greater than 10 miles per
8 hour. A person with a disability may possess a loaded firearm and
9 may discharge that firearm to take an animal from in or upon a
10 vehicle, except for a car or truck, on a state licensed game bird
11 hunting preserve if the vehicle is not moving. The department may
12 demand proof of eligibility under this subsection. An individual
13 shall possess proof of his or her eligibility under this subsection
14 and furnish the proof upon the request of a peace officer.

15 (4) An individual may transport or possess an unloaded firearm
16 in or upon a vehicle on a sporting clays range.

17 (5) AN INDIVIDUAL HOLDING A VALID PERMIT TO HUNT FROM A
18 STANDING VEHICLE UNDER SECTION 40114 MAY TRANSPORT OR POSSESS AN
19 UNCASED SHOTGUN WITH A LOADED MAGAZINE ON A PERSONAL ASSISTIVE
20 MOBILITY DEVICE IF THE ACTION IS OPEN. AN INDIVIDUAL HOLDING A
21 VALID PERMIT TO HUNT FROM A STANDING VEHICLE UNDER SECTION 40114
22 MAY POSSESS A LOADED SHOTGUN AND MAY DISCHARGE THAT FIREARM TO TAKE
23 SMALL GAME FROM A PERSONAL ASSISTIVE MOBILITY DEVICE IF ALL OF THE
24 FOLLOWING APPLY:

25 (A) THE PERSONAL ASSISTIVE MOBILITY DEVICE IS NOT MOVING.

26 (B) THE SHOTGUN IS LOADED WITH NUMBER 6 SHOT OR SMALLER.

27 (C) THE INDIVIDUAL HOLDS A VALID BASE LICENSE UNDER SECTION

1 43523A AND COMPLIES WITH ALL OTHER LAWS AND RULES FOR THE TAKING OF
2 GAME.

3 (6) ~~(5)~~—Except as otherwise provided in this part, an
4 individual shall not transport or possess a bow in or upon a
5 vehicle, unless the bow is unstrung, enclosed in a case, or carried
6 in the trunk of a vehicle.

7 (7) ~~(6)~~—An individual shall not hunt or discharge a firearm
8 within 150 yards of an occupied building, dwelling, house,
9 residence, or cabin, or any barn or other building used in
10 connection with a farm operation, without obtaining the written
11 permission of the owner, renter, or occupant of the property.

12 (8) ~~(7)~~—As used in this section:

13 (a) "Person with a disability" means a disabled person as that
14 term is defined in section 19a of the Michigan vehicle code, 1949
15 PA 300, MCL 257.19a, and who is in possession of 1 of the
16 following:

17 (i) A certificate of identification or windshield placard
18 issued to a disabled person under section 675 of the Michigan
19 vehicle code, 1949 PA 300, MCL 257.675.

20 (ii) A special registration plate issued to a disabled person
21 under section 803d of the Michigan vehicle code, 1949 PA 300, MCL
22 257.803d.

23 (B) "PERSONAL ASSISTIVE MOBILITY DEVICE" MEANS ANY DEVICE,
24 INCLUDING, BUT NOT LIMITED TO, ONE THAT IS BATTERY-POWERED, THAT IS
25 DESIGNED SOLELY FOR USE BY AN INDIVIDUAL WITH MOBILITY IMPAIRMENT
26 FOR LOCOMOTION AND IS CONSIDERED AN EXTENSION OF THE INDIVIDUAL.

27 (C) ~~(b)~~—"Unloaded" means, for a break-action firearm, that the

1 action is open with the breech exposed, whether or not the breech
2 contains a shell. Unloaded means, for a non-break-action firearm,
3 that the barrel of the firearm does not contain a shell.

4 Sec. 81133. (1) An individual shall not operate an ORV:

5 (a) At a rate of speed greater than is reasonable and proper,
6 or in a careless manner, having due regard for conditions then
7 existing.

8 (b) Unless the individual and any passenger in or on the
9 vehicle is wearing on his or her head a crash helmet and protective
10 eyewear approved by the United States department of transportation.
11 This subdivision does not apply to either of the following:

12 (i) The operator of or a passenger in a vehicle that is
13 equipped with a roof that meets or exceeds standards for a crash
14 helmet if the operator and each passenger is wearing a properly
15 adjusted and fastened safety belt.

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

19 (c) During the hours of 1/2 hour after sunset to 1/2 hour
20 before sunrise without displaying a lighted headlight and lighted
21 taillight. The requirements of this subdivision are in addition to
22 any applicable requirements of section 81131(12).

23 (d) Unless equipped with a braking system that may be operated
24 by hand or foot, capable of producing deceleration at 14 feet per
25 second on level ground at a speed of 20 miles per hour; a brake
26 light, brighter than the taillight, visible from behind the vehicle
27 when the brake is activated, if the vehicle is operated during the

1 hours of 1/2 hour after sunset and 1/2 hour before sunrise; and a
2 throttle so designed that when the pressure used to advance the
3 throttle is removed, the engine speed will immediately and
4 automatically return to idle.

5 (e) In a state game area or state park or recreation area,
6 except on roads, trails, or areas designated for this purpose; on
7 other state-owned lands under the control of the department where
8 the operation would be in violation of rules promulgated by the
9 department; in a forest nursery or planting area; on public lands
10 posted or reasonably identifiable as an area of forest
11 reproduction, and when growing stock may be damaged; in a dedicated
12 natural area of the department; or in any area in such a manner as
13 to create an erosive condition, or to injure, damage, or destroy
14 trees or growing crops. However, the department may permit an owner
15 and guests of the owner to use an ORV within the boundaries of a
16 state forest in order to access the owner's property.

17 (f) On the frozen surface of public waters within 100 feet of
18 an individual not in or upon a vehicle, or within 100 feet of a
19 fishing shanty or shelter or an area that is cleared of snow for
20 skating purposes, except at the minimum speed required to maintain
21 controlled forward movement of the vehicle, or as may be authorized
22 by permit in special events.

23 (g) Unless the vehicle is equipped with a spark arrester type
24 United States forest service approved muffler, in good working
25 order and in constant operation. Exhaust noise emission shall not
26 exceed 86 Db(A) or 82 Db(A) on a vehicle manufactured after January
27 1, 1986, when the vehicle is under full throttle, traveling in

1 second gear, and measured 50 feet at right angles from the vehicle
2 path with a sound level meter that meets the requirement of ANSI
3 S1.4 1983, using procedure and ancillary equipment therein
4 described; or 99 Db(A) or 94 Db(A) on a vehicle manufactured after
5 January 1, 1986, or that level comparable to the current sound
6 level as provided for by the United States environmental protection
7 agency when tested according to the provisions of the current SAE
8 J1287, June 86 test procedure for exhaust levels of stationary
9 motorcycles, using sound level meters and ancillary equipment
10 therein described. A vehicle subject to this part, manufactured or
11 assembled after December 31, 1972 and used, sold, or offered for
12 sale in this state, shall conform to the noise emission levels
13 established by the United States environmental protection agency
14 under the noise control act of 1972, 42 USC 4901 to 4918.

15 (h) Within 100 feet of a dwelling at a speed greater than the
16 minimum required to maintain controlled forward movement of the
17 vehicle, except under any of the following circumstances:

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

20 (ii) On a forest road or forest trail if the forest road or
21 forest trail is maintained by or under the jurisdiction of the
22 department.

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

25 (i) In or upon the lands of another without the written
26 consent of the owner, the owner's agent, or a lessee, when required
27 by part 731. The operator of the vehicle is liable for damage to

1 private property caused by operation of the vehicle, including, but
2 not limited to, damage to trees, shrubs, or growing crops, injury
3 to other living creatures, or erosive or other ecological damage.
4 The owner of the private property may recover from the individual
5 responsible nominal damages of not less than the amount of damage
6 or injury. Failure to post private property or fence or otherwise
7 enclose in a manner to exclude intruders or of the private property
8 owner or other authorized person to personally communicate against
9 trespass does not imply consent to ORV use.

10 (j) In an area on which public hunting is permitted during the
11 regular November firearm deer season, from 7 a.m. to 11 a.m. and
12 from 2 p.m. to 5 p.m., except during an emergency or for law
13 enforcement purposes, to go to and from a permanent residence or a
14 hunting camp otherwise inaccessible by a conventional wheeled
15 vehicle, or to remove from public land a deer, elk, or bear that
16 has been taken under a valid license; except to conduct necessary
17 work functions involving land and timber survey, communication and
18 transmission line patrol, or timber harvest operations; or except
19 on property owned or under control of the operator or on which the
20 operator is an invited guest. A hunter removing game under this
21 subdivision may leave the designated trail or forest road only to
22 retrieve the game and shall not exceed 5 miles per hour. A vehicle
23 registered under the code is exempt from this subdivision while
24 operating on a private road capable of sustaining automobile
25 traffic or a street, county road, or highway. A person holding a
26 valid permit to hunt from a standing vehicle issued under part 401,
27 or a person with a disability using an ORV to access public lands

1 for purposes of hunting or fishing through use of a designated
2 trail or forest road, is exempt from this subdivision. An
3 individual holding a valid permit to hunt from a standing vehicle
4 issued under part 401, or a person with a disability using an ORV
5 to access public lands for purposes of hunting or fishing, may
6 display a flag, the color of which the department shall determine,
7 to identify himself or herself as a person with a disability or an
8 individual holding a permit to hunt from a standing vehicle under
9 part 401.

10 (k) Except as otherwise provided in section ~~40111(3) or (4)~~,
11 **40111**, while transporting on the vehicle a bow unless unstrung or
12 encased, or a firearm unless unloaded and securely encased, or
13 equipped with and made inoperative by a manufactured keylocked
14 trigger housing mechanism.

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

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

20 (n) On an operating or nonabandoned railroad or railroad
21 right-of-way, or public utility right-of-way, other than for the
22 purpose of crossing at a clearly established site intended for
23 vehicular traffic, except railroad, public utility, or law
24 enforcement personnel while in performance of their duties, and
25 except if the right-of-way is designated as provided for in section
26 81127.

27 (o) In or upon the waters of any stream, river, bog, wetland,

1 swamp, marsh, or quagmire except over a bridge, culvert, or similar
2 structure.

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

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

6 (r) On public land, in a manner contrary to operating
7 regulations.

8 (s) While transporting or possessing, in or on the vehicle,
9 alcoholic liquor in a container that is open or uncapped or upon
10 which the seal is broken, except under either of the following
11 circumstances:

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

14 (ii) If the vehicle does not have a trunk or compartment
15 separate from the passenger compartment, the container is encased
16 or enclosed.

17 (t) While transporting any passenger in or upon an ORV unless
18 the manufacturing standards for the vehicle make provisions for
19 transporting passengers.

20 (u) On adjacent private land, in an area zoned residential,
21 within 300 feet of a dwelling at a speed greater than the minimum
22 required to maintain controlled forward movement of the vehicle
23 except under any of the following circumstances:

24 (i) On a forest road or forest trail if the forest road or
25 forest trail is maintained by or under the jurisdiction of the
26 department.

27 (ii) On a street, county road, or highway on which ORV use is

1 authorized under section 81131(2), (3), (5), or (6).

2 (v) On a forest trail if the ORV is greater than 50 inches in
3 width.

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