

**SUBSTITUTE FOR
HOUSE BILL NO. 5856**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 40118, 41105, 47327, 48738, 80104, 80177,
80178b, 81101, 81134, 82101, 82128, and 82129b (MCL 324.40118,
324.41105, 324.47327, 324.48738, 324.80104, 324.80177, 324.80178b,
324.81101, 324.81134, 324.82101, 324.82128, and 324.82129b),
section 40118 as amended by 2017 PA 124, sections 41105 and 47327
as added by 1995 PA 57, section 48738 as amended by 2014 PA 541,
section 80104 as amended by 2020 PA 72, section 80177 as amended by
2014 PA 402, section 80178b as added by 2014 PA 402, sections 81101
and 81134 as amended by 2014 PA 405, section 82101 as amended by
2016 PA 294, section 82128 as amended by 2014 PA 404, and section
82129b as added by 2014 PA 404.



THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 40118. (1) An individual who violates this part, an order
2 or interim order issued under this part, or a condition of a permit
3 issued under this part, except for a violation specified in
4 subsections (2) to (18), is guilty of a misdemeanor punishable by
5 imprisonment for not more than 90 days ~~or~~ a fine of not less than
6 \$50.00 or more than \$500.00, or both, and the costs of prosecution.
7 In addition, a permit issued by the department under this part must
8 be revoked pursuant to the administrative procedures act of 1969,
9 1969 PA 306, MCL 24.201 to 24.328.

10 (2) An individual who violates a provision of this part or an
11 order or interim order issued under this part regarding the
12 possession or taking of any game, except deer, bear, wild turkey,
13 wolf, waterfowl, moose, or elk, is guilty of a misdemeanor
14 punishable by imprisonment for not more than 90 days ~~or~~ a fine of
15 not less than \$100.00 or more than \$1,000.00, or both, and the
16 costs of prosecution.

17 (3) Except as otherwise provided in this subsection, an
18 individual who violates a provision of this part or an order or
19 interim order issued under this part regarding the possession or
20 taking of deer, bear, wild turkey, or wolf is guilty of a
21 misdemeanor and ~~shall be punished by imprisonment~~ **may be imprisoned**
22 ~~for not less than 5 days or more than 90 days, and a fine of~~ **shall**
23 **be fined** not less than \$200.00 or more than \$1,000.00, and **shall be**
24 **ordered to pay** the costs of prosecution. An individual shall not be
25 punished under this subsection for lawfully removing, capturing, or
26 destroying a wolf under 2008 PA 290, MCL 324.95151 to 324.95155, or
27 2008 PA 318, MCL 324.95161 to 324.95167.

28 (4) An individual who violates a provision of this part or an



1 order or interim order issued under this part regarding the
2 possession or taking of elk is guilty of a misdemeanor punishable
3 by imprisonment for not ~~less than 30 days or~~ more than 180 days ~~7~~
4 or a fine of not less than \$500.00 or more than \$2,000.00, or both,
5 and the costs of prosecution.

6 (5) An individual who violates a provision of this part or an
7 order or interim order issued under this part regarding the
8 possession or taking of moose is guilty of a misdemeanor punishable
9 by imprisonment for not ~~less than 90 days or~~ more than 1 year and a
10 fine of not less than \$1,000.00 or more than \$5,000.00, and the
11 costs of prosecution.

12 (6) An individual who violates a provision of this part or an
13 order or interim order issued under this part regarding the
14 possession or taking of waterfowl is guilty of a misdemeanor
15 punishable by imprisonment for not more than 90 days or a fine of
16 not less than \$250.00 or more than \$500.00, or both, and the costs
17 of prosecution. An individual who violates a provision of this part
18 or an order or interim order issued under this part regarding the
19 possession or taking of waterfowl a second or subsequent time is
20 guilty of a misdemeanor punishable by imprisonment for not more
21 than 90 days or a fine of \$500.00, or both, and the costs of
22 prosecution.

23 (7) An individual sentenced under subsection (3), (14), or
24 (15) shall not secure or possess a license of any kind to hunt
25 during the remainder of the year in which convicted and the next 3
26 succeeding calendar years. An individual sentenced under subsection
27 (11) shall not secure or possess a license to hunt during the
28 remainder of the year in which convicted and the next succeeding
29 calendar year, or longer in the discretion of the court.



(8) In addition to the penalties provided for violating this part or an order issued under this part, an individual convicted of the illegal killing, possessing, purchasing, or selling of a bear or an antlered white-tailed deer is subject to the following penalties:

(a) For a first offense, the individual shall not secure or possess a license of any kind to hunt for an additional 2 calendar years after the penalties imposed under subsection (7).

(b) For a second or subsequent offense, the individual shall not secure or possess a license of any kind to hunt for an additional 7 calendar years after the penalties imposed under subsection (7).

(9) In addition to the penalties provided for violating this part or an order issued under this part, an individual convicted of the illegal killing, possessing, purchasing, or selling of a wild turkey shall not secure or possess a license of any kind to hunt for an additional 2 calendar years after the penalties imposed under subsection (7).

(10) An individual sentenced under subsection (4) or (5) is subject to the following penalties:

(a) For a first offense, the individual shall not secure or possess a license of any kind to hunt for the remainder of the year in which convicted and the next 15 succeeding calendar years.

(b) For a second offense, the individual shall not secure or possess a license of any kind to hunt for the remainder of that individual's life.

(11) An individual who violates section 40113(1) is guilty of a misdemeanor punishable by imprisonment for not ~~less than 5 days~~ ~~or~~ more than 90 days ~~or~~ a fine of not less than \$100.00 or more



1 than \$500.00, or both, and the costs of prosecution.

2 (12) An individual who violates section 40113(2) is guilty of
3 a misdemeanor punishable by imprisonment for not more than 90 days
4 ~~or~~ a fine of not less than \$50.00 or more than \$500.00, or both,
5 and the costs of prosecution.

6 (13) An individual who violates section 40113(3) is guilty of
7 a misdemeanor punishable by imprisonment for not ~~less than 5 days~~
8 ~~or~~ more than 90 days ~~and or~~ a fine of not less than \$100.00 or more
9 than \$500.00, **or both**, and the costs of prosecution.

10 (14) An individual who violates a provision of this part or an
11 order or interim order issued under this part regarding the taking
12 or possession of an animal that has been designated by the
13 department to be a protected animal, other than an animal that
14 appears on a list prepared under section 36505, is guilty of a
15 misdemeanor punishable by imprisonment for not more than 90 days or
16 a fine of not less than \$100.00 or more than \$1,000.00, or both,
17 and the costs of prosecution.

18 (15) An individual who buys or sells game or a protected
19 animal in violation of this part or an order or interim order
20 issued under this part is guilty of a misdemeanor punishable by
21 imprisonment for not more than 90 days or a fine of not more than
22 \$1,000.00, or both, for the first offense, and is guilty of a
23 felony for each subsequent offense.

24 (16) An individual who willfully violates a provision of this
25 part or an order or interim order issued under this part by using
26 an illegally constructed snare or cable restraint is guilty of a
27 misdemeanor punishable by imprisonment for not more than 90 days ~~or~~
28 or a fine of \$1,000.00 for the first illegally constructed snare or
29 cable restraint and \$250.00 for each subsequent illegally



constructed snare or cable restraint, or both, and the costs of prosecution.

(17) An individual who violates a provision of this part or an order or interim order issued under this part regarding the importation of a cervid carcass or parts of a cervid carcass, other than hides, deboned meat, quarters or other parts of a cervid that do not have any part of the spinal column or head attached, finished taxidermy products, cleaned teeth, antlers, or antlers attached to a skullcap cleaned of brain and muscle tissue, from another state or province is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$500.00 or more than \$2,000.00, or both, and the costs of prosecution.

(18) If an individual is convicted of a violation of this part or an order or interim order issued under this part and it is alleged in the complaint and proved or admitted at trial or ascertained by the court after conviction that the individual had been previously convicted 2 times within the preceding 5 years for a violation of this part or an order or interim order issued under this part, the individual is guilty of a misdemeanor punishable by imprisonment for not ~~less than 10 days or more than 180 days, and~~ **or** a fine of not less than \$500.00 or more than \$2,000.00, ~~and or~~ **both, and the** costs of prosecution.

Sec. 41105. A person who takes or kills any fish, game, ~~or~~ fur-bearing animal, or game bird, contrary to an order **issued** or rule promulgated under this part, or who violates this part, is guilty of a misdemeanor, punishable for the first offense by imprisonment for not more than 60 days or a fine of not more than \$100.00. For each offense that is charged as a second or subsequent



1 offense, the person is guilty of a misdemeanor, punishable by
 2 imprisonment for not ~~less than 20 days or~~ more than 90 days ~~, or a~~
 3 fine of not less than \$50.00 or more than \$250.00.

4 Sec. 47327. ~~Any~~ **A** person who violates sections 47301 to 47325,
 5 ~~upon conviction for the first offense, shall be punished by~~
 6 **imprisonment is guilty of a misdemeanor punishable by imprisonment**
 7 for not more than 30 days ~~, or a~~ fine of not less than \$25.00 or
 8 more than \$100.00, **or both**, and **the** costs of prosecution. ~~, or~~
 9 ~~both.~~ For the second or a subsequent offense, **if** charged as a
 10 second or subsequent offense in the complaint, the person ~~shall be~~
 11 ~~punished by imprisonment~~ **is guilty of a misdemeanor punishable by**
 12 **imprisonment** for not ~~less than 30 days or~~ more than 90 days ~~, or a~~
 13 fine of not less than \$50.00 or more than \$100.00, **or both**, and **the**
 14 costs of prosecution. ~~, or both. If a fine with costs is imposed~~
 15 ~~under this part, the court shall sentence the offender to be~~
 16 ~~confined in the county jail until the fine and costs are paid, but~~
 17 ~~for a period not exceeding the maximum penalty for the offense.~~

18 Sec. 48738. (1) A person who violates this part or rules or
 19 orders issued to implement this part, if a penalty is not otherwise
 20 provided for that violation in this section, is guilty of a
 21 misdemeanor punishable by imprisonment for not more than 90 days or
 22 a fine of not more than \$500.00, or both.

23 (2) A person ~~convicted of using~~ **who uses** dynamite,
 24 nitroglycerin, any other explosive substance, lime, electricity, or
 25 poison for the purpose of taking or killing fish, ~~convicted of~~
 26 ~~using~~ **who uses** nets not authorized by law for taking game fish, or
 27 ~~convicted of buying or selling~~ **who buys or sells** game fish or any
 28 ~~parts~~ **part** of game fish is guilty of a misdemeanor punishable by
 29 imprisonment for not more than 90 days or a fine of not less than



1 \$250.00 or more than \$1,000.00, or both.

2 (3) A person who takes or possesses sturgeon in violation of
3 this part or rules or orders issued to implement this part is
4 guilty of a misdemeanor ~~and shall be punished~~ **punishable** by
5 imprisonment for not ~~less than 30 days or more than 180 days and or~~
6 a fine of not less than \$500.00 or more than \$2,000.00, or both,
7 and the costs of prosecution.

8 (4) A person who knowingly violates section 48735(2) or (4),
9 or a **rule or** permit issued under section 48735(2) or (4), with
10 respect to a genetically engineered variant of a fish species is
11 guilty of a felony punishable by imprisonment for not more than 5
12 years or a fine of not more than \$250,000.00, or both. In addition,
13 the person is liable for any damages to the natural resources
14 resulting from the violation, including, but not limited to, costs
15 incurred to prevent or minimize ~~such the~~ damages.

16 (5) If a person is convicted of a violation of this part or
17 ~~rules or orders issued to implement a rule promulgated or order~~
18 **issued under** this part and it is alleged in the complaint and
19 proved or admitted at trial or ascertained by the court at the time
20 of sentencing that the person has been previously convicted 3 or
21 more times of a violation of this part within the 5 years
22 immediately preceding the last violation of this part, the person
23 is guilty of a misdemeanor punishable by imprisonment for not more
24 than 90 days or a fine of not more than \$1,000.00, or both, and the
25 costs of prosecution. This subsection does not apply to the
26 following violations:

27 (a) Failing to possess or display a valid fishing license
28 issued ~~pursuant to~~ **under** part 435.

29 (b) Taking or possessing an overlimit of bluegill, sunfish,



1 crappie, perch, or nongame fish.

2 (c) Taking or possessing not more than 5 undersized fish.

3 (d) Fishing with too many lines.

4 (e) Failing to attach the person's name and address to tip-ups
5 or minnow traps.

6 (f) Fishing with lines not under immediate control.

7 (6) In addition to the penalties provided in this section, a
8 fishing license issued to a person sentenced ~~pursuant to~~**under**
9 subsection (2), (3), (4), or (5) shall be revoked, and the person
10 shall not be issued a license during the remainder of the year in
11 which convicted or during the next 3 succeeding license years.

12 (7) Subject to subsection (8), if any permit or license under
13 this part is ordered to be suspended or revoked under section 41309
14 and if the department maintains a database of suspensions or
15 revocations of permits or licenses under this part, the department
16 shall not issue a permit or license under this part to the person
17 for the period provided in the order.

18 (8) If a permit or license under this part is ordered to be
19 suspended under section 41309, the suspension remains in effect
20 until ~~all~~**both** of the following occur:

21 (a) The suspension period set forth in the court order has
22 elapsed.

23 (b) The person pays the department a reinstatement fee of
24 \$125.00.

25 (9) Unless a person's permit or license is otherwise
26 suspended, revoked, or denied, the permit or license is immediately
27 reinstated on satisfaction of the requirements of subsection (8).

28 Sec. 80104. As used in this part:

29 (a) "Highly restricted personal information" means an



1 individual's photograph or image, Social Security number, digitized
2 signature, and medical and disability information.

3 (b) "Passenger" means an individual carried on board, attached
4 to, or towed by a vessel, other than the operator.

5 (c) "Peace officer" means any of the following:

6 (i) A sheriff.

7 (ii) A sheriff's deputy.

8 (iii) A deputy who is authorized by a sheriff to enforce this
9 part and who has satisfactorily completed at least 40 hours of law
10 enforcement training, including training specific to this part.

11 (iv) A village or township marshal.

12 (v) An officer of the police department of a municipality.

13 (vi) An officer of the department of state police.

14 (vii) The director and conservation officers employed by the
15 department.

16 (d) "Personal information" means information that identifies
17 an individual, including an individual's driver license number,
18 name, address not including zip code, and telephone number, but
19 does not include information on watercraft operation and equipment-
20 related violations or civil infractions, operator or vehicle
21 registration status, accidents, or other behaviorally related
22 information.

23 (e) "Personal watercraft" means that term as defined in 40 CFR
24 1045.801.

25 (f) "Political subdivision" means a county, metropolitan
26 authority, municipality, or combination of those entities in this
27 state. If a body of water is located in more than 1 political
28 subdivision, all of the subdivisions shall act individually in
29 order to comply with this part, except that if the problem is



1 confined to a specific area of the body of water, only the
2 political subdivision in which the problem waters lie shall act.

3 (g) "Port" means left, and reference is to the port side of a
4 vessel or to the left side of the vessel.

5 (h) "Prior conviction" means a conviction for any of the
6 following, whether under a law of this state, a local ordinance
7 substantially corresponding to a law of this state, a law of the
8 United States substantially corresponding to a law of this state,
9 or a law of another state substantially corresponding to a law of
10 this state:

11 (i) A violation or an attempted violation of section 80176(1),
12 (3), (4), (5), (6), or (7), except that only 1 violation or
13 attempted violation of section 80176(6), a local ordinance
14 substantially corresponding to section 80176(6), ~~or~~ a law of
15 another state substantially corresponding to section 80176(6), or a
16 law of the United States substantially corresponding to section
17 80176(6) may be used as a prior conviction other than for
18 enhancement purposes as provided in section 80178a(1)(b).

19 (ii) Negligent homicide, manslaughter, or murder resulting from
20 the operation of a vessel or an attempt to commit any of those
21 crimes.

22 (iii) Former section 73, 73b, or 171(1) of the marine safety
23 act.

24 (i) "Probate court or family division disposition" means the
25 entry of a probate court order of disposition or family division
26 order of disposition for a child found to be within the provisions
27 of chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL
28 712A.1 to 712A.32.

29 (j) "Prosecuting attorney", ~~except as~~ **unless** the context



1 requires otherwise, means the attorney general, prosecuting
 2 attorney of a county, or attorney representing a political
 3 subdivision of government.

4 (k) "Regatta", "boat race", "marine parade", "tournament", or
 5 "exhibition" means an organized water event of limited duration
 6 that is conducted according to a prearranged schedule.

7 (l) "Slow-no wake speed" means a very slow speed whereby the
 8 wake or wash created by the vessel would be minimal.

9 (m) **"Specialty court program" means a program under any of the**
 10 **following:**

11 (i) **A drug treatment court, as defined in section 1060 of the**
 12 **revised judicature act of 1961, 1961 PA 236, MCL 600.1060, in which**
 13 **the participant is an adult.**

14 (ii) **A DWI/sobriety court, as defined in section 1084 of the**
 15 **revised judicature act of 1961, 1961 PA 236, MCL 600.1084.**

16 (iii) **A hybrid of the programs under subparagraphs (i) and (ii) .**

17 (iv) **A mental health court as defined in section 1090 of the**
 18 **revised judicature act of 1961, 1961 PA 236, MCL 600.1090.**

19 (v) **A veterans treatment court, as defined in section 1200 of**
 20 **the revised judicature act of 1961, 1961 PA 236, MCL 600.1200.**

21 (n) ~~(m)~~ "Starboard" means right, and reference is to the
 22 starboard side of a vessel or to the right side of the vessel.

23 (o) ~~(n)~~ "State aid" means payment made by this state to a
 24 county for the conduct of a marine safety program.

25 (p) ~~(o)~~ "Temporary ordinance" means a type of local ordinance
 26 adopted by a political subdivision of this state under section
 27 80112a that includes, but is not limited to, a local watercraft
 28 control or administrative rule.

29 (q) ~~(p)~~ "Undocumented vessel" means a vessel that does not



1 have, and is not required to have, a valid marine document issued
 2 by the United States Coast Guard or federal agency successor to the
 3 United States Coast Guard.

4 (r) ~~(q)~~—"Uniform inspection decal" means an adhesive-backed
 5 sticker created by the department that is color-coded to indicate
 6 the year that it expires and is attached to a vessel in the manner
 7 prescribed for decals in section 80122 when a peace officer
 8 inspects and determines that the vessel complies with this part.

9 (s) ~~(r)~~—"Use" means operate, navigate, or employ.

10 (t) ~~(s)~~—"Vessel" means every description of watercraft used or
 11 capable of being used as a means of transportation on water.

12 (u) ~~(t)~~—"Waters of this state" means any waters within the
 13 territorial limits of this state, and includes those waters of the
 14 Great Lakes that are under the jurisdiction of this state.

15 (v) ~~(u)~~—"Waterways account" means the waterways account
 16 established in section 2035.

17 Sec. 80177. (1) If a person is convicted of violating section
 18 80176(1), the following apply:

19 (a) Except as otherwise provided in subdivisions (b) and (c),
 20 the person is guilty of a misdemeanor and shall be punished by 1 or
 21 more of the following:

22 (i) Community service for not more than 45 days.

23 (ii) Imprisonment for not more than 93 days.

24 (iii) A fine of not less than \$100.00 or more than \$500.00.

25 (b) If the violation occurs within 7 years of a prior
 26 conviction, the person shall be sentenced to ~~both~~ a fine of not
 27 less than \$200.00 or more than \$1,000.00 and either of the
 28 following:

29 (i) Community service for not less than 10 days or more than 90



1 days, and may be imprisoned for not more than 1 year.

2 (ii) Imprisonment for not less than 48 consecutive hours or
3 more than 1 year, and may be sentenced to community service for not
4 more than 90 days.

5 (c) If the violation occurs after 2 or more prior convictions
6 regardless of the number of years that have elapsed since any prior
7 conviction, the person is guilty of a felony and shall be sentenced
8 to imprisonment for not less than 1 year or more than 5 years ~~—~~or
9 a fine of not less than \$500.00 or more than \$5,000.00, or both.

10 (2) A term of imprisonment imposed under subsection (1)(b)(ii)
11 **or (1)(c) shall not be suspended unless the defendant agrees to**
12 **participate in a specialty court program and successfully completes**
13 **the program.** A person sentenced to perform service to the community
14 under this section shall not receive compensation and shall
15 reimburse the state or appropriate local unit of government for the
16 cost of supervision incurred by the state or local unit of
17 government as a result of the person's activities in that service.

18 (3) In addition to the sanctions prescribed under subsection
19 (1) and section 80176(4) and (5), the court may, under **chapter IX**
20 **of** the code of criminal procedure, 1927 PA 175, MCL ~~760.1 to~~
21 ~~777.69, 769.1 to 769.36,~~ order the person to pay the costs of the
22 prosecution. The court shall also impose sanctions under sections
23 80185 and 80186.

24 (4) A person who is convicted of violating section 80176(2) is
25 guilty of a misdemeanor, punishable by imprisonment for not more
26 than 93 days ~~—~~or a fine of not less than \$100.00 or more than
27 \$500.00, or both.

28 Sec. 80178b. (1) A person who violates section 80176(7)(a) is
29 guilty of a crime punishable as follows:



(a) Except as provided in subdivision (b), a person who violates section 80176(7)(a) is guilty of a misdemeanor and shall be sentenced to pay a fine of not less than \$200.00 or more than \$1,000.00 and to 1 or more of the following:

(i) Imprisonment for not less than 5 days or more than 1 year. Not less than 48 hours of this **term of** imprisonment shall be served consecutively. This term of imprisonment shall not be suspended **unless the defendant agrees to participate in a specialty court program and successfully completes the program.**

(ii) Community service for not less than 30 days or more than 90 days.

(b) If the violation occurs within 7 years of a prior conviction or after 2 or more prior convictions, regardless of the number of years that have elapsed since any prior conviction, a person who violates section 80176(7)(a) is guilty of a felony and shall be sentenced to pay a fine of not less than \$500.00 or more than \$5,000.00 and to either of the following:

(i) Imprisonment under the jurisdiction of the department of corrections for not less than 1 year or more than 5 years.

(ii) Probation with imprisonment in the county jail for not less than 30 days or more than 1 year and community service for not less than 60 days or more than 180 days. Not less than 48 hours of this **term of** imprisonment shall be served consecutively. This term of imprisonment shall not be suspended **unless the defendant agrees to participate in a specialty court program and successfully completes the program.**

(2) A person who violates section 80176(7)(b) is guilty of a misdemeanor punishable as follows:

(a) Except as provided in subdivision (b), a person who



violates section 80176(7) (b) may be sentenced to 1 or more of the following:

(i) Community service for not more than 60 days.

(ii) A fine of not more than \$500.00.

(iii) Imprisonment for not more than 93 days.

(b) If the violation occurs within 7 years of a prior conviction or after 2 or more prior convictions, regardless of the number of years that have elapsed since any prior conviction, a person who violates section 80176(7) (b) shall be sentenced to pay a fine of not less than \$200.00 or more than \$1,000.00 and to 1 or more of the following:

(i) Imprisonment for not less than 5 days or more than 1 year. ~~Not less than 48 hours of this imprisonment shall be served consecutively.~~ This term of imprisonment shall not be suspended **unless the defendant agrees to participate in a specialty court program and successfully completes the program.**

(ii) Community service for not less than 30 days or more than 90 days.

(3) In addition to imposing the sanctions prescribed under this section, the court may order the person to pay the costs of the prosecution under **chapter IX of** the code of criminal procedure, 1927 PA 175, MCL ~~760.1 to 777.69.~~ **769.1 to 769.36.**

(4) A person sentenced to perform community service under this section shall not receive compensation and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person's activities in that service.

Sec. 81101. As used in this part:

(a) "Alcoholic liquor" means that term as defined in section



1 1d of the Michigan vehicle code, 1949 PA 300, MCL 257.1d.

2 (b) "ATV" means a vehicle with 3 or more wheels that is
3 designed for off-road use, has low-pressure tires, has a seat
4 designed to be straddled by the rider, and is powered by a 50cc to
5 1,000cc gasoline engine or an engine of comparable size using other
6 fuels.

7 (c) "Code" means the Michigan vehicle code, 1949 PA 300, MCL
8 257.1 to 257.923.

9 (d) "County road" means a county primary road or county local
10 road as described in section 5 of 1951 PA 51, MCL 247.655, or a
11 segment thereof.

12 (e) "Dealer" means a person engaged in the sale, lease, or
13 rental of an ORV as a regular business or, for purposes of selling
14 licenses under section 81116, any other person authorized by the
15 department to sell licenses or permits, or both, under this act.

16 (f) "Designated", unless the context implies otherwise, means
17 posted by the department, with appropriate signs, as open for ORV
18 use.

19 (g) "Farm vehicle" means either of the following:

20 (i) An implement of husbandry as defined in section 21 of the
21 Michigan vehicle code, 1949 PA 300, MCL 257.21.

22 (ii) A vehicle used in connection with a farm operation as
23 defined in section 2 of the Michigan right to farm act, 1981 PA 93,
24 MCL 286.472.

25 (h) "Forest road" means a hard surfaced road, gravel or dirt
26 road, or other route capable of travel by a 2-wheel drive, 4-wheel
27 conventional vehicle designed for road use. Forest road does not
28 include a street, county road, or highway.

29 (i) "Forest trail" means a designated path or way that is not



1 a route.

2 (j) "Highway" means a state trunk line highway or a segment of
3 a state trunk line highway.

4 (k) "Highly restricted personal information" means an
5 individual's photograph or image, ~~social security~~ **Social Security**
6 number, digitized signature, and medical and disability
7 information.

8 (l) "Late model ORV" means an ORV manufactured in the current
9 model year or the 5 model years immediately preceding the current
10 model year.

11 (m) "Law of another state" means a law or ordinance enacted by
12 any of the following:

13 (i) Another state.

14 (ii) A local unit of government in another state.

15 (iii) Canada or a province or territory of Canada.

16 (iv) A local unit of government in a province or territory of
17 Canada.

18 (n) "Local unit of government" means a county, township, or
19 municipality.

20 (o) "Maintained portion" means the roadway and any shoulder of
21 a street, county road, or highway.

22 (p) "Manufacturer" means a person, partnership, corporation,
23 or association engaged in the production and manufacture of ORVs as
24 a regular business.

25 (q) "Municipality" means a city or village.

26 (r) "Off-road vehicle account" means the off-road vehicle
27 account of the Michigan conservation and recreation legacy fund
28 established in section 2015.

29 (s) "Operate" means to ride in or on, and be in actual



1 physical control of, the operation of an ORV.

2 (t) "Operator" means an individual who operates or is in
3 actual physical control of the operation of an ORV.

4 (u) "ORV" or, unless the context implies a different meaning,
5 "vehicle" means a motor-driven off-road recreation vehicle capable
6 of cross-country travel without benefit of a road or trail, on or
7 immediately over land, snow, ice, marsh, swampland, or other
8 natural terrain. A multitrack or multiwheel drive vehicle, a
9 motorcycle or related 2-wheel vehicle, a vehicle with 3 or more
10 wheels, an amphibious machine, a ground effect air cushion vehicle,
11 or other means of transportation may be an ORV. An ATV is an ORV.
12 ORV or vehicle does not include a registered snowmobile, a farm
13 vehicle being used for farming, a vehicle used for military, fire,
14 emergency, or law enforcement purposes, a vehicle owned and
15 operated by a utility company or an oil or gas company when
16 performing maintenance on its facilities or on property over which
17 it has an easement, a construction or logging vehicle used in
18 performance of its common function, or a registered aircraft.

19 (v) "ORV safety certificate" means an ORV safety certificate
20 issued under section 81130 or, except as used in section 81130, a
21 comparable safety certificate issued under the authority of another
22 state or province of Canada.

23 (w) "Owner" means any of the following:

24 (i) A vendee or lessee of an ORV that is the subject of an
25 agreement for the conditional sale or lease of the ORV, with the
26 right of purchase upon performance of the conditions stated in the
27 agreement, and with an immediate right of possession vested in the
28 conditional vendee or lessee.

29 (ii) A person renting an ORV, or having the exclusive use of an

1 ORV, for more than 30 days.

2 (iii) A person who holds legal ownership of an ORV.

3 (x) "Person with a disability" means an individual who has 1
4 or more of the following physical characteristics:

5 (i) Blindness.

6 (ii) Inability, during some time of the year, to ambulate more
7 than 200 feet without having to stop and rest.

8 (iii) Loss of use of 1 or both legs or feet.

9 (iv) Inability to ambulate without the prolonged use of a
10 wheelchair, walker, crutches, braces, or other device required to
11 aid mobility.

12 (v) A lung disease from which the individual's expiratory
13 volume for 1 second, ~~when~~ measured by spirometry, is less than 1
14 liter, or from which the individual's arterial oxygen tension is
15 less than 60 mm/hg of room air at rest.

16 (vi) A cardiovascular disease that causes the individual to
17 measure between 3 and 4 on the New York heart classification scale,
18 or that results in a marked limitation of physical activity by
19 causing fatigue, palpitation, dyspnea, or anginal pain.

20 (vii) Other diagnosed disease or disorder including, but not
21 limited to, severe arthritis or a neurological or orthopedic
22 impairment that creates a severe mobility limitation.

23 (y) "Personal information" means information that identifies
24 an individual, including an individual's driver identification
25 number, name, address not including zip code, and telephone number,
26 but does not include information on ORV operation or equipment-
27 related violations or civil infractions, operator or vehicle
28 registration status, accidents, or other behaviorally related
29 information.



1 (z) "Prior conviction" means a conviction for any of the
2 following, whether under a law of this state, a local ordinance
3 substantially corresponding to a law of this state, a law of the
4 United States substantially corresponding to a law of this state,
5 or a law of another state substantially corresponding to a law of
6 this state:

7 (i) A violation or an attempted violation of section 81134(1),
8 (3), (4), (5), (6), or (7), except that only 1 violation or
9 attempted violation of section 81134(6), a local ordinance
10 substantially corresponding to section 81134(6), a law of another
11 state substantially corresponding to section 81134(6), or a law of
12 the United States substantially corresponding to section 81134(6)
13 may be used as a prior conviction other than for enhancement
14 purposes as provided in section 81134(11)(b).

15 (ii) Negligent homicide, manslaughter, or murder resulting from
16 the operation of an ORV, or an attempt to commit any of those
17 crimes.

18 (iii) Former section 81135.

19 (aa) "Public agency" means the department or a local or
20 federal unit of government.

21 (bb) "Roadway" means the portion of a street, county road, or
22 highway improved, designed, or ordinarily used for travel by
23 vehicles registered under the code. Roadway does not include the
24 shoulder.

25 (cc) "Route" means a forest road or other road that is
26 designated for purposes of this part by the department.

27 (dd) "Safety chief instructor" means an individual who has
28 been certified by a nationally recognized ORV organization to
29 certify instructors and to do on-sight evaluations of instructors.



(ee) "Shoulder" means that portion of a street, county road, or highway contiguous to the roadway and generally extending the contour of the roadway, not designed for vehicular travel but maintained for the temporary accommodation of disabled or stopped motor vehicles otherwise permitted on the roadway.

(ff) "Southern county" means Muskegon, Kent, Ionia, Clinton, Shiawassee, Genesee, Lapeer, or Macomb ~~county, County~~, or a county lying south of the territory constituted by these counties.

(gg) "Specialty court program" means a program under any of the following:

(i) A drug treatment court, as defined in section 1060 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1060, in which the participant is an adult.

(ii) A DWI/sobriety court, as defined in section 1084 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1084.

(iii) A hybrid of the programs under subparagraphs (i) and (ii).

(iv) A mental health court as defined in section 1090 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1090.

(v) A veterans treatment court, as defined in section 1200 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1200.

(hh) ~~(gg)~~ "Street" means a city or village major street or city or village local street as described in section 9 of 1951 PA 51, MCL 247.659, or a segment thereof.

(ii) ~~(hh)~~ "Traffic lane" means a clearly marked lane on a roadway.

(jj) ~~(ii)~~ "Unmaintained portion" means the portion of a street, county road, or highway that is not the maintained portion.

(kk) ~~(jj)~~ "Visual supervision" means the direct observation of the operator with the unaided or normally corrected eye ~~where the~~



1 **by an** observer **who** is able to come to the immediate aid of the
2 operator.

3 Sec. 81134. (1) A person shall not operate an ORV if any of
4 the following apply:

5 (a) The person is under the influence of alcoholic liquor or a
6 controlled substance, as defined by section 7104 of the public
7 health code, 1978 PA 368, MCL 333.7104, or a combination of
8 ~~intoxicating~~ **alcoholic** liquor and a controlled substance.

9 (b) The person has an alcohol content of 0.08 grams or more
10 per 100 milliliters of blood, per 210 liters of breath, or per 67
11 milliliters of urine.

12 (c) The person has in his or her body any amount of a
13 controlled substance listed in schedule 1 under section 7212 of the
14 public health code, 1978 PA 368, MCL 333.7212, or a rule
15 promulgated under that section, or of a controlled substance
16 described in section 7214(a)(iv) of the public health code, 1978 PA
17 368, MCL 333.7214.

18 (2) The owner or person in charge or in control of an ORV
19 shall not authorize or knowingly permit the ORV to be operated by a
20 person if any of the following apply:

21 (a) The person is under the influence of alcoholic liquor or a
22 controlled substance or a combination of alcoholic liquor and a
23 controlled substance.

24 (b) The person has an alcohol content of 0.08 grams or more
25 per 100 milliliters of blood, per 210 liters of breath, or per 67
26 milliliters of urine.

27 (c) The person's ability to operate an ORV is visibly impaired
28 due to the consumption of an alcoholic liquor, a controlled
29 substance, or a combination of an alcoholic liquor and a controlled



1 substance.

2 (3) A person shall not operate an ORV if, due to the
3 consumption of alcoholic liquor, a controlled substance, as defined
4 by section 7104 of the public health code, 1978 PA 368, MCL
5 333.7104, or a combination of alcoholic liquor and a controlled
6 substance, the person's ability to operate an ORV is visibly
7 impaired. If a person is charged with violating subsection (1), a
8 finding of guilty is permissible under this subsection.

9 (4) A person who operates an ORV in violation of subsection
10 (1) or (3) and by the operation of that ORV causes the death of
11 another person is guilty of a felony punishable by imprisonment for
12 not more than 15 years or a fine of not less than \$2,500.00 or more
13 than \$10,000.00, or both.

14 (5) A person who operates an ORV within this state in
15 violation of subsection (1) or (3) and by the operation of that ORV
16 causes a serious impairment of a body function of another person is
17 guilty of a felony punishable by imprisonment for not more than 5
18 years or a fine of not less than \$1,000.00 or more than \$5,000.00,
19 or both. As used in this subsection, "serious impairment of a body
20 function" means that term as defined in section 58c of the Michigan
21 vehicle code, 1949 PA 300, MCL 257.58c.

22 (6) A person who is less than 21 years of age, whether
23 licensed or not, shall not operate an ORV if the person has any
24 bodily alcohol content. As used in this subsection, "any bodily
25 alcohol content" means either of the following:

26 (a) An alcohol content of 0.02 grams or more but less than
27 0.08 grams per 100 milliliters of blood, per 210 liters of breath,
28 or per 67 milliliters of urine, or, beginning October 1, 2018, an
29 alcohol content of 0.02 grams or more but less than 0.10 grams per



1 100 milliliters of blood, per 210 liters of breath, or per 67
2 milliliters of urine.

3 (b) Any presence of alcohol within a person's body resulting
4 from the consumption of alcoholic liquor, other than consumption of
5 alcoholic liquor as a part of a generally recognized religious
6 service or ceremony.

7 (7) A person shall not operate an ORV in violation of
8 subsection (1), (3), (4), (5), or (6) while another person who is
9 less than 16 years of age is occupying the ORV.

10 (8) If a person is convicted of violating subsection (1)(a) or
11 (b), all of the following apply:

12 (a) Except as otherwise provided in subdivisions (b) and (c),
13 the person is guilty of a misdemeanor punishable by 1 or more of
14 the following:

15 (i) Community service for not more than 360 hours.

16 (ii) Imprisonment for not more than 93 days.

17 (iii) A fine of not less than \$100.00 or more than \$500.00.

18 (b) If the violation occurs within 7 years of a prior
19 conviction, the person shall be sentenced to pay a fine of not less
20 than \$200.00 or more than \$1,000.00 and to 1 or more of the
21 following:

22 (i) Imprisonment for not less than 5 days or more than 1 year.
23 ~~Not less than 48 hours of the term of imprisonment imposed under~~
24 ~~this subparagraph shall be served consecutively.~~

25 (ii) Community service for not less than 30 days or more than
26 90 days.

27 (c) If the violation occurs after 2 or more prior convictions,
28 regardless of the number of years that have elapsed since any prior
29 conviction, the person is guilty of a felony and shall be sentenced



1 to pay a fine of not less than \$500.00 or more than \$5,000.00 and
2 to either of the following:

3 (i) Imprisonment under the jurisdiction of the department of
4 corrections for not less than 1 year or more than 5 years.

5 (ii) Probation with imprisonment in the county jail for not
6 less than 30 days or more than 1 year and community service for not
7 less than 60 days or more than 180 days. Not less than 48 hours of
8 the imprisonment imposed under this subparagraph shall be served
9 consecutively.

10 (d) A term of imprisonment imposed under subdivision (b) or
11 (c) shall not be suspended **unless the defendant agrees to**
12 **participate in a specialty court program and successfully completes**
13 **the program.**

14 (9) A person who is convicted of violating subsection (2) is
15 guilty of a misdemeanor punishable by imprisonment for not more
16 than 93 days or a fine of not less than \$100.00 or more than
17 \$500.00, or both.

18 (10) If a person is convicted of violating subsection (3), all
19 of the following apply:

20 (a) Except as otherwise provided in subdivisions (b) and (c),
21 the person is guilty of a misdemeanor punishable by 1 or more of
22 the following:

23 (i) Community service for not more than 45 days.

24 (ii) Imprisonment for not more than 93 days.

25 (iii) A fine of not more than \$300.00.

26 (b) If the violation occurs within 7 years of 1 prior
27 conviction, the person shall be sentenced to ~~both~~ a fine of not
28 less than \$200.00 or more than \$1,000.00, and either of the
29 following:



1 (i) Community service for not less than 10 days or more than 90
2 days, and may be sentenced to imprisonment for not more than 1
3 year.

4 (ii) Imprisonment for not more than 1 year, and may be
5 sentenced to community service for not more than 90 days.

6 (c) If the violation occurs after 2 or more prior convictions
7 regardless of the number of years that have elapsed since any prior
8 conviction, the person shall be sentenced to ~~both~~ a fine of not
9 less than \$200.00 or more than \$1,000.00 ~~—~~ and either of the
10 following:

11 (i) Community service for a period of not less than 10 days or
12 more than 90 days, and may be sentenced to imprisonment for not
13 more than 1 year.

14 (ii) Imprisonment for not more than 1 year, and may be
15 sentenced to community service for not more than 90 days.

16 (11) If a person is convicted of violating subsection (6), all
17 of the following apply:

18 (a) Except as otherwise provided in subdivision (b), the
19 person is guilty of a misdemeanor punishable by 1 or both of the
20 following:

21 (i) Community service for not more than 360 hours.

22 (ii) A fine of not more than \$250.00.

23 (b) If the violation occurs within 7 years of 1 or more prior
24 convictions, the person may be sentenced to 1 or more of the
25 following:

26 (i) Community service for not more than 60 days.

27 (ii) A fine of not more than \$500.00.

28 (iii) Imprisonment for not more than 93 days.



1 (12) A person who violates subsection (7) is guilty of a crime
2 as follows:

3 (a) A person who operates an ORV in violation of subsection
4 (1), (3), (4), or (5) while another person who is less than 16
5 years of age is occupying the ORV is guilty of a crime as follows:

6 (i) Except as provided in subdivision (b), a person who
7 violates this subdivision is guilty of a misdemeanor and shall be
8 sentenced to pay a fine of not less than \$200.00 or more than
9 \$1,000.00 and to 1 or more of the following:

10 (A) Imprisonment for not less than 5 days or more than 1 year.
11 Not less than 48 hours of this **term of** imprisonment shall be served
12 consecutively. This term of imprisonment shall not be suspended
13 **unless the defendant agrees to participate in a specialty court**
14 **program and successfully completes the program.**

15 (B) Community service for not less than 30 days or more than
16 90 days.

17 (ii) If the violation occurs within 7 years of a prior
18 conviction or after 2 or more prior convictions, regardless of the
19 number of years that have elapsed since any prior conviction, a
20 person who violates this subdivision is guilty of a felony and
21 shall be sentenced to pay a fine of not less than \$500.00 or more
22 than \$5,000.00 and to either of the following:

23 (A) Imprisonment under the jurisdiction of the department of
24 corrections for not less than 1 year or more than 5 years.

25 (B) Probation with imprisonment in the county jail for not
26 less than 30 days or more than 1 year and community service for not
27 less than 60 days or more than 180 days. Not less than 48 hours of
28 this **term of** imprisonment shall be served consecutively. This term
29 of imprisonment shall not be suspended **unless the defendant agrees**



1 to participate in a specialty court program and successfully
2 completes the program.

3 (b) A person who operates an ORV in violation of subsection
4 (6) while another person who is less than 16 years of age is
5 occupying the ORV is guilty of a misdemeanor punishable as follows:

6 (i) Except as provided in subparagraph (ii), a person who
7 violates this subdivision may be sentenced to 1 or more of the
8 following:

9 (A) Community service for not more than 60 days.

10 (B) A fine of not more than \$500.00.

11 (C) Imprisonment for not more than 93 days.

12 (ii) If the violation occurs within 7 years of a prior
13 conviction or after 2 or more prior convictions, regardless of the
14 number of years that have elapsed since any prior conviction, a
15 person who violates this subdivision shall be sentenced to pay a
16 fine of not less than \$200.00 or more than \$1,000.00 and to 1 or
17 more of the following:

18 (A) Imprisonment for not less than 5 days or more than 1 year.

19 ~~Not less than 48 hours of this imprisonment shall be served~~
20 ~~consecutively.~~ This term of imprisonment shall not be suspended
21 unless the defendant agrees to participate in a specialty court
22 program and successfully completes the program.

23 (B) Community service for not less than 30 days or more than
24 90 days.

25 (13) For a conviction under subsection (4) or (5), the court
26 shall order, without an expiration date, that the person not
27 operate an ORV.

28 (14) As part of the sentence for a violation of subsection (1)
29 or a local ordinance substantially corresponding to subsection (1),



1 the court shall do the following:

2 (a) If the court finds that the person has no prior
3 convictions within 7 years, the court shall order that the person
4 not operate an ORV for a period of not less than 6 months or more
5 than 2 years.

6 (b) If the court finds that the person has 1 or more prior
7 convictions within 7 years, the court shall order that the person
8 not operate an ORV for a period of not less than 1 year or more
9 than 2 years.

10 (c) If the court finds that the person has 2 or more prior
11 convictions within a period of 10 years, the court shall order that
12 the person not operate an ORV for a period of not less than 1 year
13 or more than 2 years.

14 (15) As part of the sentence for a violation of subsection (3)
15 or a local ordinance substantially corresponding to subsection (3),
16 the court shall do the following:

17 (a) If the court finds that the person has no prior
18 convictions within 7 years, the court shall order that the person
19 not operate an ORV for a period of not less than 90 days or more
20 than 1 year.

21 (b) If the court finds that the person has 1 or more prior
22 convictions within 7 years, the court shall order that the person
23 not operate an ORV for a period of not less than 6 months or more
24 than 18 months.

25 (c) If the court finds that the person has 2 or more prior
26 convictions within a period of 10 years, the court shall order that
27 the person not operate an ORV for a period of not less than 1 year
28 or more than 2 years.

29 (16) In addition to imposing the sanctions prescribed under



1 this section, the court may order the person to pay the costs of
2 the prosecution under **chapter IX of** the code of criminal procedure,
3 1927 PA 175, MCL ~~760.1 to 777.69~~. **769.1 to 769.36.**

4 (17) A person sentenced to perform community service under
5 this section shall not receive compensation and shall reimburse the
6 state or appropriate local unit of government for the cost of
7 supervision incurred by the state or local unit of government as a
8 result of the person's activities in that service.

9 (18) Before imposing sentence for a violation of subsection
10 (1), (3), (6), or (7) or a local ordinance substantially
11 corresponding to subsection (1), (3), or (6), the court shall order
12 the person to undergo screening and assessment by a person or
13 agency designated by the office of substance abuse services, to
14 determine whether the person is likely to benefit from
15 rehabilitative services, including alcohol or drug education and
16 alcohol or drug treatment programs. As part of the sentence, the
17 court may order the person to participate in and successfully
18 complete 1 or more appropriate rehabilitative programs. The person
19 shall pay for the costs of the screening, assessment, and
20 rehabilitative services.

21 (19) Before accepting a plea of guilty under this section, the
22 court shall advise the accused of the statutory consequences
23 possible as the result of a plea of guilty in respect to suspension
24 of the person's right to operate an ORV and the penalty imposed for
25 violation of this section.

26 (20) Each municipal judge and each clerk of a court of record
27 shall keep a full record of every case in which a person is charged
28 with a violation of this section. The municipal judge or clerk of
29 the court of record shall prepare and immediately forward to the



1 secretary of state an abstract of the court of record for each case
2 charging a violation of this section.

3 Sec. 82101. As used in this part:

4 (a) "Alcoholic liquor" means that term as defined in section
5 1d of the Michigan vehicle code, 1949 PA 300, MCL 257.1d.

6 (b) "Auction" means the sale or offer for sale by bidding of
7 real or personal property at a public or private location.

8 (c) "Auctioneer" means a person that is engaged in the
9 business of conducting auctions or that offers to conduct an
10 auction for compensation.

11 (d) "Conviction" means a final conviction, the payment of a
12 fine, a plea of guilty or nolo contendere if accepted by the court,
13 or a finding of guilt or probate court disposition on a violation
14 of this part, regardless of whether the penalty is rebated or
15 suspended.

16 (e) "Dealer" means any person engaged in the sale, lease, or
17 rental of snowmobiles as a regular business, other than an
18 auctioneer.

19 (f) "Former section 15a" means section 15a of former 1968 PA
20 74, as constituted before May 1, 1994.

21 (g) "Highly restricted personal information" means an
22 individual's photograph or image, ~~social security~~ **Social Security**
23 number, digitized signature, and medical and disability
24 information.

25 (h) "Highway or street" means the entire width between the
26 boundary lines of every way publicly maintained if any part of it
27 is open to public use for vehicular travel.

28 (i) "Historic snowmobile" means a snowmobile that is over 25
29 years old and that is owned solely as a collector's item and for



1 occasional use and for participation in club activities,
2 exhibitions, tours, parades, and similar uses, including mechanical
3 testing.

4 (j) "In-kind contributions" means services and goods as
5 approved by the department that are provided by a grant recipient
6 toward completion of a department-approved local snowmobile program
7 under section 82107.

8 (k) "Law of another state" means a law or ordinance enacted by
9 any of the following:

10 (i) Another state.

11 (ii) A local unit of government in another state.

12 (iii) Canada or a province or territory of Canada.

13 (iv) A local unit of government in a province or territory of
14 Canada.

15 (l) "Operate" means to ride in or on and be in actual physical
16 control of the operation of a snowmobile.

17 (m) "Operator" means any individual who operates a snowmobile.

18 (n) "Owner" means any of the following:

19 (i) A person that holds the legal title to a snowmobile.

20 (ii) A vendee or lessee of a snowmobile that is the subject of
21 an agreement for conditional sale or lease with the right of
22 purchase upon performance of the conditions stated in the agreement
23 and with an immediate right of possession vested in the conditional
24 vendee or lessee.

25 (iii) A person renting a snowmobile or having the exclusive use
26 of a snowmobile for more than 30 days.

27 (o) "Peace officer" means any of the following:

28 (i) A sheriff.

1 (ii) A sheriff's deputy.

2 (iii) A deputy who is authorized by a sheriff to enforce this
3 part and who has satisfactorily completed at least 40 hours of law
4 enforcement training, including training specific to this part.

5 (iv) A village or township marshal.

6 (v) An officer of the police department of any municipality.

7 (vi) An officer of the Michigan state police.

8 (vii) The director and conservation officers employed by the
9 department.

10 (viii) A law enforcement officer who is licensed or certified
11 under the Michigan commission on law enforcement standards act,
12 1965 PA 203, MCL 28.601 to 28.615, ~~provided that officer~~ **and** is
13 policing within his or her jurisdiction.

14 (p) "Personal information" means information that identifies
15 an individual, including an individual's driver identification
16 number, name, address not including zip code, and telephone number,
17 but does not include information on snowmobile operation or
18 equipment-related violations or civil infractions, operator or
19 snowmobile registration status, accidents, or other behaviorally-
20 related information.

21 (q) "Prior conviction" means a conviction for any of the
22 following, whether under a law of this state, a local ordinance
23 substantially corresponding to a law of this state, a law of the
24 United States substantially corresponding to a law of this state,
25 or a law of another state substantially corresponding to a law of
26 this state:

27 (i) A violation or an attempted violation of section 82127(1),
28 (3), (4), (5), (6), or (7), except that only 1 violation or
29 attempted violation of section 82127(6), a local ordinance



1 substantially corresponding to section 82127(6), or a law of
 2 another state substantially corresponding to section 82127(6), or a
 3 law of the United States substantially corresponding to section
 4 82127(6) may be used as a prior conviction other than for
 5 enhancement purposes as provided in section 82129a(1)(b).

6 (ii) Negligent homicide, manslaughter, or murder resulting from
 7 the operation of a snowmobile or an attempt to commit any of those
 8 crimes.

9 (iii) Former section 15a(1), (3), (4), or (5) of 1968 PA 74.

10 (iv) Former section 15a.

11 (r) "Probate court or family division disposition" means the
 12 entry of a probate court order of disposition or family division
 13 order of disposition for a child found to be within the provisions
 14 of chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL
 15 712A.1 to 712A.32.

16 (s) "Prosecuting attorney", ~~except as~~ **unless** the context
 17 requires otherwise, means the attorney general, the prosecuting
 18 attorney of a county, or the attorney representing a local unit of
 19 government.

20 (t) "Recreational snowmobile trail improvement subaccount"
 21 means the recreational snowmobile trail improvement subaccount of
 22 the snowmobile account created in section 82110.

23 (u) "Right-of-way" means that portion of a highway or street
 24 ~~less~~ **not including** the roadway and any shoulder.

25 (v) "Roadway" means that portion of a highway or street
 26 improved, designated, or ordinarily used for vehicular travel. If a
 27 highway or street includes 2 or more separate roadways, the term
 28 roadway refers to any roadway separately, but not to all of the
 29 roadways collectively.



(w) "Shoulder" means that portion of a highway or street on either side of the roadway that is normally snowplowed for the safety and convenience of vehicular traffic.

(x) "Snowmobile" means any motor-driven vehicle **that is** designed for travel primarily on snow or ice ~~of a type and~~ that utilizes sled-type runners or skis, an endless belt tread, or any combination of these or other similar means of contact with the surface upon which it is operated, but is not a vehicle that must be registered under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(y) "Snowmobile account" means the snowmobile account of the Michigan conservation and recreation legacy fund provided for in section 2025.

(z) "Snowmobile registration fee subaccount" means the snowmobile registration fee subaccount of the snowmobile account created in section 82111.

(aa) "Specialty court program" means a program under any of the following:

(i) A drug treatment court, as defined in section 1060 of the revised judiciary act of 1961, 1961 PA 236, MCL 600.1060, in which the participant is an adult.

(ii) A DWI/sobriety court, as defined in section 1084 of the revised judiciary act of 1961, 1961 PA 236, MCL 600.1084.

(iii) A hybrid of the programs under subparagraphs (i) and (ii).

(iv) A mental health court as defined in section 1090 of the revised judiciary act of 1961, 1961 PA 236, MCL 600.1090.

(v) A veterans treatment court, as defined in section 1200 of the revised judiciary act of 1961, 1961 PA 236, MCL 600.1200.

(bb) ~~(aa)~~ "Zone 1" means all of the Upper Peninsula.



1 **(cc)** ~~(bb)~~ "Zone 2" means all of that part of the Lower
2 Peninsula north of a line beginning at and drawn from a point on
3 the Michigan-Wisconsin boundary line due west of the westerly
4 terminus of River ~~road~~ **Road** in Muskegon ~~county~~; **County**; thence due
5 east to the westerly terminus of River ~~road~~; **Road**; thence north and
6 east along the center line of the River ~~road~~ **Road** to its
7 intersection with highway M-120; thence northeasterly and easterly
8 along the center line of highway M-120 to the junction of highway
9 M-20; thence easterly along the center line of M-20 to its junction
10 with US-10 at the Midland-Bay ~~county~~ **County** line; thence easterly
11 along the center line of the "business route" of highway US-10 to
12 the intersection of Garfield ~~road~~ **Road** in Bay ~~county~~; **County**;
13 thence north along the center line of Garfield ~~road~~ **Road** to the
14 intersection of the Pinconning ~~road~~; **Road**; thence east along the
15 center line of Pinconning ~~road~~ **Road** to the intersection of the
16 Seven Mile ~~road~~; **Road**; thence north along the center of the Seven
17 Mile ~~road~~ **Road** to the Bay-Arenac ~~county~~ **County** line; thence north
18 along the center line of the Lincoln School ~~road~~ **Road** (county road
19 25) in Arenac ~~county~~ **County** to the intersection of highway M-61;
20 thence east along the center line of highway M-61 to the junction
21 of highway US-23; thence northerly and easterly along the center
22 line of highway US-23 to the center line of the Au Gres ~~river~~;
23 **River**; thence southerly along the center line of the river to its
24 junction with Saginaw Bay of Lake Huron; thence north 78° east to
25 the international boundary line between the United States and the
26 Dominion of Canada.

27 **(dd)** ~~(cc)~~ "Zone 3" means all of that part of the Lower
28 Peninsula south of the line described in subdivision (bb).

29 Sec. 82128. (1) If a person is convicted of violating section



1 82127(1), the following apply:

2 (a) Except as otherwise provided in subdivisions (b) and (c),
3 the person is guilty of a misdemeanor and may be punished by 1 or
4 more of the following:

5 (i) Community service for not more than 45 days.

6 (ii) Imprisonment for not more than 93 days.

7 (iii) A fine of not less than \$100.00 or more than \$500.00.

8 (b) If the violation occurs within 7 years of a prior
9 conviction, the person shall be sentenced to ~~both~~ a fine of not
10 less than \$200.00 or more than \$1,000.00 and either of the
11 following:

12 (i) Community service for not less than 10 days or more than 90
13 days, and may be imprisoned for not more than 1 year.

14 (ii) Imprisonment for not less than 48 consecutive hours or
15 more than 1 year, and may be sentenced to community service for not
16 more than 90 days.

17 (c) If the violation occurs after 2 or more prior convictions
18 regardless of the number of years that have elapsed since any prior
19 conviction, the person is guilty of a felony and shall be sentenced
20 to imprisonment for not less than 1 year or more than 5 years ~~—~~or
21 a fine of not less than \$500.00 or more than \$5,000.00, or both.

22 (2) A term of imprisonment imposed under subsection (1) (b) (ii)
23 **or (1) (c) shall not be suspended unless the defendant agrees to**
24 **participate in a specialty court program and successfully completes**
25 **the program.**

26 (3) A person sentenced to perform service to the community
27 under this section shall not receive compensation and shall
28 reimburse the state or appropriate local unit of government for the
29 cost of supervision incurred by the state or local unit of



1 government as a result of the person's activities in that service
2 if ordered by the court.

3 (4) In addition to the sanctions prescribed under subsection
4 (1) and section 82127(4) and (5), the court may, under **chapter IX**
5 **of** the code of criminal procedure, 1927 PA 175, MCL ~~760.1 to~~
6 ~~777.69, 769.1 to 769.36~~, order the person to pay the costs of the
7 prosecution. The court shall also impose sanctions under section
8 82142.

9 (5) A person who is convicted of violating section 82127(2) is
10 guilty of a misdemeanor, punishable by imprisonment for not more
11 than 93 days ~~—~~ or a fine of not less than \$100.00 or more than
12 \$500.00, or both.

13 Sec. 82129b. (1) A person who violates section 82127(7) (a) is
14 guilty of a crime punishable as follows:

15 (a) Except as provided in subdivision (b), a person who
16 violates section 82127(7) (a) is guilty of a misdemeanor and shall
17 be sentenced to pay a fine of not less than \$200.00 or more than
18 \$1,000.00 and to 1 or more of the following:

19 (i) Imprisonment for not less than 5 days or more than 1 year.
20 Not less than 48 hours of this **term of** imprisonment shall be served
21 consecutively. This term of imprisonment shall not be suspended
22 **unless the defendant agrees to participate in a specialty court**
23 **program and successfully completes the program.**

24 (ii) Community service for not less than 30 days or more than
25 90 days.

26 (b) If the violation occurs within 7 years of a prior
27 conviction or after 2 or more prior convictions, regardless of the
28 number of years that have elapsed since any prior conviction, a
29 person who violates section 82127(7) (a) is guilty of a felony and



shall be sentenced to pay a fine of not less than \$500.00 or more than \$5,000.00 and to either of the following:

(i) Imprisonment under the jurisdiction of the department of corrections for not less than 1 year or more than 5 years.

(ii) Probation with imprisonment in the county jail for not less than 30 days or more than 1 year and community service for not less than 60 days or more than 180 days. Not less than 48 hours of this **term of** imprisonment shall be served consecutively. This term of imprisonment shall not be suspended **unless the defendant agrees to participate in a specialty court program and successfully completes the program.**

(2) A person who violates section 82127(7)(b) is guilty of a misdemeanor punishable as follows:

(a) Except as provided in subdivision (b), a person who violates section 82127(7)(b) may be sentenced to 1 or more of the following:

(i) Community service for not more than 60 days.

(ii) A fine of not more than \$500.00.

(iii) Imprisonment for not more than 93 days.

(b) If the violation occurs within 7 years of a prior conviction or after 2 or more prior convictions, regardless of the number of years that have elapsed since any prior conviction, a person who violates section 82127(7)(b) shall be sentenced to pay a fine of not less than \$200.00 or more than \$1,000.00 and to 1 or more of the following:

(i) Imprisonment for not less than 5 days or more than 1 year. ~~Not less than 48 hours of this imprisonment shall be served consecutively.~~ This term of imprisonment shall not be suspended **unless the defendant agrees to participate in a specialty court**



1 **program and successfully completes the program.**

2 (ii) Community service for not less than 30 days or more than
3 90 days.

4 (3) In addition to imposing the sanctions prescribed under
5 this section, the court may order the person to pay the costs of
6 the prosecution under **chapter IX of** the code of criminal procedure,
7 1927 PA 175, MCL ~~760.1 to 777.69.~~ **769.1 to 769.36.**

8 (4) A person sentenced to perform community service under this
9 section shall not receive compensation and shall reimburse the
10 state or appropriate local unit of government for the cost of
11 supervision incurred by the state or local unit of government as a
12 result of the person's activities in that service.