

HOUSE BILL No. 4338

February 22, 2001, Introduced by Rep. Allen and referred to the Committee on Conservation and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 81129 and 81130 (MCL 324.81129 and 324.81130), as added by 1995 PA 58.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 81129. (1) Subject to subsections (2), (3), and ~~(17)~~
2 (16), a parent or legal guardian of a child less than 16 years of
3 age shall not permit the child to operate an ORV unless the child
4 is under the direct visual supervision of an adult and the child
5 has in his or her immediate possession an ORV safety certificate
6 issued pursuant to this part or a comparable ORV safety certifi-
7 cate issued under the authority of another state or a province of
8 Canada.

9 (2) A parent or legal guardian of a child less than 12 years
10 of age shall not permit the child to operate a 4-wheeled ATV —

1 unless the child is not less than 10 years of age and is on
2 private land owned by a parent or legal guardian of the child.
3 This subsection does not apply to the operation of an ATV used in
4 agricultural operations.

5 (3) A parent or legal guardian of a child less than 16 years
6 of age shall not permit the child to operate a 3-wheeled ATV.

7 (4) Subject to subsections (5), (6), and ~~(17)~~ (16), the
8 owner or person in charge of an ORV shall not knowingly permit
9 the vehicle to be operated by a child less than 16 years of age
10 unless the child is under the direct visual supervision of an
11 adult and the child has in his or her immediate possession an ORV
12 safety certificate issued pursuant to this part or a comparable
13 ORV safety certificate issued under the authority of another
14 state or a province of Canada.

15 (5) The owner or person in charge of a 4-wheeled ATV shall
16 not knowingly permit the vehicle to be operated by a child less
17 than 12 years of age ~~—~~ unless the child is not less than 10
18 years of age and is on private land owned by a parent or legal
19 guardian of the child. This subsection does not apply to the
20 operation of an ATV used in agricultural operations.

21 (6) The owner or person in charge of a 3-wheeled ATV shall
22 not knowingly permit the vehicle to be operated by a child less
23 than 16 years of age.

24 (7) The owner or person in charge of an ORV shall not know-
25 ingly permit the vehicle to be operated by a person who is incom-
26 petent to operate the vehicle because of mental or physical
27 disability except as provided in section 81131.

1 (8) Not later than ~~April 1, 1995~~ OCTOBER 1, 2001, the
2 department of education shall implement a comprehensive ORV
3 information, safety education, and training program that shall
4 include the training of operators and the preparation and dissem-
5 ination of information and safety advice to the public. The pro-
6 gram shall provide for the training of youthful operators and for
7 the issuance of ORV safety certificates to those who successfully
8 complete the training provided under the program. ~~and may~~
9 ~~include separate instruction for each type of ORV.~~

10 (9) In implementing a program that is established pursuant
11 to this section, the department of education shall cooperate with
12 private organizations and associations, private and public corpo-
13 rations, the department of natural resources, the department of
14 state, and local governmental units. The department of education
15 shall consult with ORV and environmental organizations and asso-
16 ciations in regard to the subject matter of a training program
17 and performance testing that leads to certification of ORV
18 operators.

19 (10) The department of education may designate a person it
20 considers qualified to provide course instruction and to award
21 ORV safety certificates.

22 ~~(11) The department of education may promulgate rules to~~
23 ~~implement subsections (8) to (10).~~

24 (11) ~~(12)~~ Subject to subsections ~~(13)~~ (12), ~~(14)~~ (13),
25 and ~~(17)~~ (16), a child who is less than 16 years of age may
26 operate an ORV if the child is under the direct visual
27 supervision of an adult and the child has in his or her immediate

1 possession an ORV safety certificate issued pursuant to this
2 section or a comparable ORV safety certificate issued under the
3 authority of another state or a province of Canada.

4 (12) ~~(13)~~ A child who is less than 12 years of age shall
5 not operate a 4-wheeled ATV ~~,~~ unless the child is not less than
6 10 years of age and is on private land owned by a parent or legal
7 guardian of the child. This subsection does not apply to the
8 operation of an ATV used in agricultural operations.

9 (13) ~~(14)~~ A child who is less than 16 years of age shall
10 not operate a 3-wheeled ATV.

11 (14) ~~(15)~~ When operating an ORV under subsection ~~(12)~~
12 (11), a child shall present the ORV safety certificate to a peace
13 officer upon demand.

14 (15) ~~(16)~~ Notwithstanding any other provision of this sec-
15 tion, an operator who is under 12 years of age shall not cross a
16 highway or street. An operator who is not less than 12 years of
17 age but less than 16 years of age may cross a highway or street
18 or operate on the right-of-way or shoulder of designated access
19 routes pursuant to section 81131 if the operator has a valid ORV
20 safety certificate in his or her immediate possession and meets
21 any other requirements under this section for operation of the
22 vehicle.

23 (16) ~~(17)~~ The requirement of possession or presentation of
24 an ORV safety certificate under this section shall not take
25 effect until implementation of the program for the vehicle pro-
26 posed to be operated required by subsection (8). ~~The~~
27 ~~requirement of possession or presentation of an ORV safety~~

~~1 certificate under this section for operation of a 2-wheeled ORV
2 or an ATV type ORV shall not take effect until March 1, 1996.~~

3 Sec. 81130. (1) A person who is under 16 years of age ~~7~~
4 ~~before operating an ATV or ORV,~~ shall complete an ORV safety
5 education course approved by the department of education BEFORE
6 OPERATING AN ATV OR ORV. This course may include a written exam-
7 ination and a driving test designed to test the competency of the
8 applicant. Upon successful completion of this safety education
9 course, a person shall receive an ORV safety certificate.

10 (2) A safety education course conducted by a college or uni-
11 versity, an intermediate school district, a local school dis-
12 trict, a law enforcement agency, other governmental agency
13 located in this state, or department of education approved non-
14 profit service organization shall be conducted in compliance with
15 this section. An agency or a school conducting a course OF NOT
16 LESS THAN 7 HOURS OF INSTRUCTION under this subsection may apply
17 to the department for a grant from the fund for costs associated
18 with conducting SUCH a course. A VEHICLE USED FOR TRAINING IN A
19 SAFETY EDUCATION COURSE SHALL BE PROVIDED BY THE STUDENT OR THE
20 SPONSOR OF THE COURSE AND SHALL NOT BE LARGER THAN THE RECOM-
21 MENDED SIZE SPECIFIED IN THE CURRICULUM FOR THE COURSE.

22 (3) Except for a course conducted by a private business
23 enterprise as provided by subsection (4), an applicant for a
24 safety education course under this section shall pay not more
25 than a \$25.00 course fee or in the case of a university or commu-
26 nity college a fee not more than the cost of 1 credit hour of

1 instruction. The course fees shall only be used for funding the
2 administration and implementation of the course.

3 (4) An ATV or ORV, or both, safety education course required
4 by this section and approved by the department of education may
5 be conducted by a private business enterprise. A private busi-
6 ness enterprise may charge a course fee not to exceed the cost of
7 conducting the course. A VEHICLE USED FOR TRAINING IN A SAFETY
8 EDUCATION COURSE CONDUCTED PURSUANT TO THIS SUBSECTION SHALL BE
9 PROVIDED BY THE STUDENT OR THE SPONSOR OF THE COURSE AND SHALL
10 NOT BE LARGER THAN THE RECOMMENDED SIZE SPECIFIED IN THE CURRICU-
11 LUM FOR THE COURSE.

12 ~~(5) The superintendent of public instruction shall designate~~
13 ~~a person to be the state coordinator of the ATV and ORV~~
14 ~~safety education program. A person designated under this subsec-~~
15 ~~tion shall have successfully completed ATV and ORV safety~~
16 ~~courses.~~

17 ~~(6) The superintendent of public instruction shall designate~~
18 ~~a person who has successfully completed ATV and ORV safety~~
19 ~~courses to perform annual inspections of course sites.~~

20 (5) A PERSON SHALL MEET THE FOLLOWING REQUIREMENTS TO BE AN
21 ORV SAFETY EDUCATION INSTRUCTOR:

22 (A) POSSESS A VALID OPERATOR'S LICENSE.

23 (B) BE NOT LESS THAN 18 YEARS OF AGE.

24 (C) BE KNOWLEDGEABLE OF THE RULES AND REGULATIONS THAT PER-
25 TAIN TO ORV OPERATIONS ON PUBLIC AND PRIVATE LAND.

26 (D) HAVE PRIOR EXPERIENCE IN THE SAFE OPERATION OF AN ORV.

1 (E) HAVE SUCCESSFULLY COMPLETED AN ORV SAFETY EDUCATION
2 INSTRUCTOR PREPARATION COURSE APPROVED BY THE DEPARTMENT.

3 (6) THE DEPARTMENT OF EDUCATION MAY APPROVE AS AN ORV SAFETY
4 EDUCATION INSTRUCTOR A LOCAL OR STATE LAW ENFORCEMENT OFFICER WHO
5 MAKES APPLICATION AS AN ORV SAFETY EDUCATION INSTRUCTOR IF THE
6 DEPARTMENT DETERMINES THAT THE OFFICER HAS NOT LESS THAN 3 YEARS'
7 PRIOR EXPERIENCE WITH THE OPERATION OF AN ORV AND WITH THE
8 ENFORCEMENT OF THIS PART, AN ORDINANCE ADOPTED PURSUANT TO THIS
9 PART, OR THE RULES PROMULGATED PURSUANT TO THIS PART.

10 (7) THE DEPARTMENT OF EDUCATION MAY REVOKE AN INSTRUCTOR'S
11 APPROVAL TO TEACH AN ORV SAFETY EDUCATION COURSE AFTER NOTICE AND
12 HEARING AS PROVIDED IN SUBSECTION (8) FOR ANY OF THE FOLLOWING
13 REASONS:

14 (A) CONVICTION OF CRIMINAL SEXUAL CONDUCT IN ANY DEGREE.

15 (B) FELONIOUS ASSAULT ON A CHILD, CHILD ABUSE, OR CRUELTY,
16 TORTURE, OR INDECENT EXPOSURE INVOLVING A CHILD.

17 (C) NOTIFICATION IS RECEIVED FROM THE SECRETARY OF STATE
18 THAT THE INSTRUCTOR HAS ACCUMULATED 7 OR MORE POINTS ON HIS OR
19 HER DRIVING RECORD WITHIN A 2-YEAR PERIOD FOR MOVING TRAFFIC
20 VIOLATIONS.

21 (D) THE INDIVIDUAL DOES NOT MEET THE REQUIREMENTS OF SUBSEC-
22 TION (5).

23 (8) BEFORE REVOKING THE APPROVAL OF AN INSTRUCTOR, THE
24 DEPARTMENT OF EDUCATION SHALL CAUSE A COPY OF THE WRITTEN CHARGES
25 AND A NOTICE OF OPPORTUNITY TO SHOW COMPLIANCE TO BE SERVED UPON
26 THE INSTRUCTOR. WITHIN 30 DAYS AFTER SERVICE OF A COPY OF THE
27 CHARGES AND NOTICE OF OPPORTUNITY TO SHOW COMPLIANCE, A HEARING

1 CONFERENCE SHALL BE CONDUCTED BY AN AUTHORIZED REPRESENTATIVE OF
2 THE DEPARTMENT OF EDUCATION. THE HEARING SHALL BE CONDUCTED BY A
3 HEARING OFFICER WHO IS DESIGNATED BY THE STATE SUPERINTENDENT OF
4 PUBLIC INSTRUCTION AND SHALL BE CONDUCTED IN COMPLIANCE WITH SEC-
5 TIONS 71 TO 87 OF THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969
6 PA 306, MCL 24.271 TO 24.287. IF THE INSTRUCTOR FAILS TO ATTEND
7 THE HEARING, THE HEARING MAY PROCEED AND A DECISION MAY BE MADE
8 IN THE ABSENCE OF THE INSTRUCTOR. THE INSTRUCTOR AND THE DEPART-
9 MENT OF EDUCATION MAY AGREE, IN WRITING, TO A SETTLEMENT OF THE
10 MATTER WITHOUT A HEARING. AFTER THE HEARING CONFERENCE, THE
11 DEPARTMENT OF EDUCATION SHALL TAKE 1 OF THE FOLLOWING ACTIONS:

12 (A) MAKE A FINDING OF COMPLIANCE.

13 (B) ENTER INTO A WRITTEN SETTLEMENT OF THE MATTER WITH THE
14 INSTRUCTOR.

15 (C) MAKE A FINDING ON NONCOMPLIANCE AND REVOKE APPROVAL TO
16 TEACH ORV SAFETY EDUCATION COURSES.

17 (9) AFTER APPROVAL TO TEACH ORV SAFETY EDUCATION HAS BEEN
18 REVOKED FOR A PERIOD OF 24 OR MORE MONTHS, THE DEPARTMENT OF EDU-
19 CATION MAY REINSTATE THE APPROVAL OF AN INDIVIDUAL IF AN APPLICA-
20 TION FOR REINSTATEMENT MEETS THE EXISTING CRITERIA FOR APPROVAL
21 UNDER SUBSECTION (5).

22 (10) NONCOMPLIANCE WITH ANY SECTION OF THIS ACT SHALL BE
23 CONSIDERED JUST CAUSE TO DISCONTINUE A SAFETY EDUCATION COURSE
24 THAT WAS PREVIOUSLY APPROVED BY THE DEPARTMENT OF EDUCATION. THE
25 DEPARTMENT OF EDUCATION SHALL FOLLOW THE PROVISIONS FOR A HEARING
26 UNDER SUBSECTION (8) BEFORE DISCONTINUING A PROGRAM.