

HOUSE BILL No. 4621

May 1, 2003, Introduced by Rep. Cheeks and referred to the Committee on Appropriations.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 81101, 81115, 81116, 81117, 81125, and 81129 (MCL 324.81101, 324.81115, 324.81116, 324.81117, 324.81125, and 324.81129), section 81101 as amended by 1998 PA 86, sections 81115, 81117, 81125, and 81129 as added by 1995 PA 58, and section 81116 as amended by 1995 PA 99; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 81101. As used in this part:
2 (a) "ATV" means a 3- or 4-wheeled vehicle designed for
3 off-road use that has low-pressure tires, has a seat designed to
4 be straddled by the rider, and is powered by a 50cc to 500cc
5 gasoline engine or an engine of comparable size using other
6 fuels.

1 (b) "Code" means the Michigan vehicle code, 1949 PA 300, MCL
2 257.1 to 257.923.

3 (c) "Dealer" means a person engaged in the sale, lease, or
4 rental of an ORV as a regular business or, for purposes of
5 selling licenses under section 81116, any other person authorized
6 by the department to sell licenses or permits, or both, under
7 this act.

8 (d) "Designated", **unless the context implies otherwise**, means
9 posted open for ORV use with appropriate signs by the
10 department.

11 (e) "Forest road" means a hard surfaced road, gravel or dirt
12 road, or other route capable of travel by a 2-wheel drive,
13 4-wheel conventional vehicle designed for highway use, except an
14 interstate, state, or county highway.

15 (f) "Forest trail" means a designated path or way capable of
16 travel only by a vehicle less than 50 inches in width.

17 (g) "Highway" means the entire width between the boundary
18 lines of a way publicly maintained when any part of the way is
19 open to the use of the public for purposes of vehicular travel.

20 (h) "Highly restricted personal information" means an
21 individual's photograph or image, social security number,
22 digitized signature, and medical and disability information.

23 (i) "Late model ORV" means an ORV manufactured in the current
24 model year or the 5 model years immediately preceding the current
25 model year.

26 (j) "Manufacturer" means a person, partnership, corporation,
27 or association engaged in the production and manufacture of ORVs

1 as a regular business.

2 (k) "Operate" means to ride in or on, and be in actual
3 physical control of, the operation of an ORV.

4 (l) "Operator" means a person who operates or is in actual
5 physical control of the operation of an ORV.

6 (m) "ORV" or "vehicle" means a motor driven off-road
7 recreation vehicle capable of cross-country travel without
8 benefit of a road or trail, on or immediately over land, snow,
9 ice, marsh, swampland, or other natural terrain. ORV or vehicle
10 includes, but is not limited to, a multitrack or multiwheel drive
11 vehicle, an ATV, a motorcycle or related 2-wheel, 3-wheel, or
12 4-wheel vehicle, an amphibious machine, a ground effect air
13 cushion vehicle, or other means of transportation deriving motive
14 power from a source other than muscle or wind. ORV or vehicle
15 does not include a registered snowmobile, a farm vehicle being
16 used for farming, a vehicle used for military, fire, emergency,
17 or law enforcement purposes, a vehicle owned and operated by a
18 utility company or an oil or gas company when performing
19 maintenance on its facilities or on property over which it has an
20 easement, a construction or logging vehicle used in performance
21 of its common function, or a registered aircraft.

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

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

1 (ii) A person renting an ORV, or having the exclusive use of
2 an ORV, for more than 30 days.

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

4 (o) "Person with disabilities" means a person who has 1 or
5 more of the following physical characteristics:

6 (i) Blindness.

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

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

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

13 (v) A lung disease from which the person's expiratory volume
14 for 1 second, when measured by spirometry, is less than 1 liter,
15 or from which the person's arterial oxygen tension is less than
16 60 mm/hg of room air at rest.

17 (vi) A cardiovascular disease from which the person measures
18 between 3 and 4 on the New York heart classification scale, or
19 from which a marked limitation of physical activity causes
20 fatigue, palpitation, dyspnea, or anginal pain.

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

24 (p) "Personal information" means information that identifies
25 an individual, including an individual's driver identification
26 number, name, address not including zip code, and telephone
27 number, but does not include information on ORV operation or

1 equipment-related violations or civil infractions, operator or
2 vehicle registration status, accidents, or other
3 behaviorally-related information.

4 (q) "Public agency" means the department or a local or
5 federal unit of government.

6 (r) "Roadway" means that portion of a highway improved,
7 designated, or ordinarily used for vehicular travel. If a
8 highway includes 2 or more separate roadways, the term roadway
9 refers to a roadway separately, but not to all roadways
10 collectively.

11 (s) "Route" means a forest road or other road that is
12 designated for purposes of this part by the department.

13 ~~(t) "Safety education fund" means the safety education fund~~
14 ~~created under section 81118.~~

15 ~~— (u) "Safety chief instructor" means a person who has been~~
16 ~~certified by a nationally recognized ATV and ORV organization to~~
17 ~~certify instructors and to do on-site evaluations of~~
18 ~~instructors.~~

19 (t) ~~-(v)-~~ "Trail improvement fund" means the ORV trail
20 improvement fund created pursuant to section 81117.

21 (u) ~~-(w)-~~ "Visual supervision" means the direct observation
22 of the operator with the unaided or normally corrected eye, where
23 the observer is able to come to the immediate aid of the
24 operator.

25 Sec. 81115. ~~-(1) Beginning April 1, 1991, except~~ **Except**
26 as otherwise provided, an ORV shall not be operated on or over
27 land, snow, ice, marsh, swampland, or other natural terrain

1 unless licensed by the owner with the department or a dealer as
2 provided in this part. Except as otherwise provided in this
3 part, a vehicle operating on a forest trail or in a designated
4 area shall be licensed under this part.

5 ~~(2) Licensure is not required for an ORV used exclusively in~~
6 ~~a safety and training program as required in section 81129.~~

7 Sec. 81116. (1) The owner of an ORV requiring licensure
8 under this part shall file an application for a license with the
9 department or a dealer on forms provided by the department. If
10 an ORV is sold by a dealer, the application for a license shall
11 be submitted to the department by the dealer in the name of the
12 owner. The application shall be signed by the owner of the
13 vehicle — and shall be accompanied by a fee of ~~\$8.00 beginning~~
14 ~~April 1, 1993, \$10.00 beginning April 1, 1995, and \$16.25~~
15 ~~beginning April 1, 1996 and thereafter~~ **\$15.25**. A person shall
16 not file an application for registration that contains false
17 information. Upon receipt of the application in approved form
18 and upon payment of the appropriate fee, the department or dealer
19 shall issue to the applicant a license which shall be valid for
20 the 12-month period for which it is issued. A license shall be
21 issued for the 12-month period beginning April 1 and ending
22 March 31 each year.

23 (2) Dealers may purchase from the department ORV licenses for
24 resale to owners of vehicles requiring licensure under this
25 part. The department shall refund to dealers the purchase price
26 of any ORV licenses returned within 90 days after the end of the
27 12-month period for which they were valid. The dealer shall

1 maintain and provide to the department records of ORV license
2 sales on forms provided by the department. In addition to the
3 sale of ORV licenses, a dealer engaged in the sale, lease, or
4 rental of ORVs as a regular business may sell any other license
5 or permit authorized by the department to be sold by other
6 dealers under the statutes of this state.

7 (3) The license shall be permanently attached to the vehicle
8 in the manner prescribed and in the location designated by the
9 department before the vehicle may legally be operated in
10 accordance with this part.

11 (4) If at the time of sale the purchaser certifies on a form
12 provided by the department that the purchased vehicle otherwise
13 requiring a license under this part will be used and stored
14 outside of this state and will not be returned by the purchaser
15 to this state for use, then a license ~~will~~ **is** not ~~be~~
16 required.

17 Sec. 81117. (1) The ORV trail improvement fund is created
18 in the state treasury. The fund shall be administered by the
19 department and shall be used for the signing, improvement,
20 maintenance, and construction of ORV trails, routes, or areas;
21 for the administration and enforcement of this part; for the
22 leasing of land; for the acquisition of easements, permits, or
23 other agreements for the use of land for ORV trails, routes, or
24 areas; and for the restoration of any of the natural resources of
25 this state on public land that are damaged due to ORV use in
26 conjunction with the plan required by section 81123.

27 (2) ~~Beginning April 1, 1990, \$6.00 of the revenue from each~~

1 ~~fee collected under section 81116 shall be deposited in the~~
2 ~~fund. Except as provided in section 81118, beginning April 1,~~
3 ~~1993, all~~ All of the revenue from each fee collected under
4 section 81116 shall be deposited in the fund.

5 (3) The department may accept gifts, grants, or bequests from
6 any public or private source or from the federal, state, or a
7 local unit of government for the purposes of the fund.

8 (4) All funds allocated under this part shall be for projects
9 that are open to the public.

10 (5) Any money remaining in the ORV trail improvement fund at
11 the end of a fiscal year shall be carried over in the fund to the
12 next and succeeding fiscal years and shall only be used for the
13 purposes stated in this section.

14 ~~(6) No money in the ORV trail improvement fund may be~~
15 ~~expended until the comprehensive system for ORV use required by~~
16 ~~section 81127 is approved in the manner provided in section~~
17 ~~81127.~~

18 Sec. 81125. (1) The ORV trails advisory committee is
19 created within the department of natural resources.

20 (2) The advisory committee shall assist the department in
21 developing criteria for grants, nominate forest roads to be
22 included as ORV routes, nominate forest trails, assist the
23 department in promulgating rules, and assist the department in
24 developing the plan required by section 81123. The advisory
25 committee shall advise the department on recommendations made by
26 ORV users of forest trails, roads, and areas that should be
27 designated for ORV use.

1 (3) The advisory committee shall consist of 6 members
2 appointed by the director. Three of the members shall represent
3 ORV trail users and dealers. Two of the members shall represent
4 natural resources, conservation, or environmental groups. One
5 member shall represent law enforcement who shall be a county
6 sheriff. At least 1 member shall be from the Upper Peninsula of
7 this state. Members shall be appointed for terms of 3 years
8 except that of the members first appointed, 1 member from each
9 group and the member representing law enforcement shall be
10 appointed for 3 years and the balance of the members shall be
11 appointed for 2 years.

12 (4) The committee shall meet at least once each year.

13 ~~(2) Not later than January 1, 1998, the trails advisory~~
14 ~~committee shall report to the standing committees of the senate~~
15 ~~and the house of representatives that consider legislation~~
16 ~~affecting this part on the adequacy of funding for operation and~~
17 ~~enforcement of this part, any recommendations for changes in~~
18 ~~these areas, and the effectiveness of the safety education and~~
19 ~~training program.~~

20 Sec. 81129. (1) Subject to subsections (2) ~~—~~ **and** (3),
21 ~~and (17)~~ a parent or legal guardian of a child less than 16
22 years of age shall not permit the child to operate an ORV unless
23 the child is under the direct visual supervision of an adult.
24 ~~and the child has in his or her immediate possession an ORV~~
25 ~~safety certificate issued pursuant to this part or a comparable~~
26 ~~ORV safety certificate issued under the authority of another~~
27 ~~state or a province of Canada.~~

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

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

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

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

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

26 (7) The owner or person in charge of an ORV shall not
27 knowingly permit the vehicle to be operated by a person who is

1 incompetent to operate the vehicle because of mental or physical
2 disability except as provided in section 81131.

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

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

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

24 ~~—— (11) The department of education may promulgate rules to~~
25 ~~implement subsections (8) to (10).~~

26 ~~(8) —(12)—~~ Subject to subsections ~~—(13), (14),—~~ **(9)** and
27 ~~—(17)—~~ **(10)**, a child who is less than 16 years of age may operate

1 an ORV if the child is under the direct visual supervision of an
2 adult. ~~and the child has in his or her immediate possession an~~
3 ~~ORV safety certificate issued pursuant to this section or a~~
4 ~~comparable ORV safety certificate issued under the authority of~~
5 ~~another state or a province of Canada.~~

6 (9) ~~(13)~~ A child who is less than 12 years of age shall not
7 operate a 4-wheeled ATV, unless the child is not less than 10
8 years of age and is on private land owned by a parent or legal
9 guardian of the child. This subsection does not apply to the
10 operation of an ATV used in agricultural operations.

11 (10) ~~(14)~~ A child who is less than 16 years of age shall
12 not operate a 3-wheeled ATV.

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

16 (11) ~~(16)~~ Notwithstanding any other provision of this
17 section, an operator who is ~~under~~ **less than** 12 years of age
18 shall not cross a highway or street. An operator who is not less
19 than 12 years of age but less than 16 years of age may cross a
20 highway or street or operate on the right-of-way or shoulder of
21 designated access routes pursuant to section 81131 if the
22 operator ~~has a valid ORV safety certificate in his or her~~
23 ~~immediate possession and~~ meets any other requirements under this
24 section for operation of the vehicle.

25 ~~(17) The requirement of possession or presentation of an ORV~~
26 ~~safety certificate under this section shall not take effect until~~
27 ~~implementation of the program for the vehicle proposed to be~~

1 ~~operated required by subsection (8). The requirement of~~
2 ~~possession or presentation of an ORV safety certificate under~~
3 ~~this section for operation of a 2-wheeled ORV or an ATV type ORV~~
4 ~~shall not take effect until March 1, 1996.~~

5 Enacting section 1. Sections 81118 and 81130 of the natural
6 resources and environmental protection act, 1994 PA 451, MCL
7 324.81118 and 324.81130, are repealed.