

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 296

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 81129 (MCL 324.81129), as amended by 2003 PA
111.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 81129. (1) Subject to subsections (2), (3), ~~and~~ (17), **AND**
2 **(18)**, 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 certificate
7 issued under the authority of another state or a province of
8 Canada.

1 (2) ~~A-SUBJECT TO SUBSECTION (18), A~~ parent or legal guardian
2 of a child less than 12 years of age shall not permit the child to
3 operate a 4-wheeled ATV, unless the child is not less than 10 years
4 of age and is on private land owned by a parent or legal guardian
5 of the child. This subsection does not apply to the operation of an
6 ATV used in 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), (6), ~~and (17), AND (18),~~ the
10 owner or person in charge of an ORV shall not knowingly permit the
11 vehicle to be operated by a child less than 16 years of age unless
12 the child is under the direct visual supervision of an adult and
13 the child has in his or her immediate possession an ORV safety
14 certificate issued pursuant to this part or a comparable ORV safety
15 certificate issued under the authority of another state or a
16 province of Canada.

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

23 (6) The owner or person in charge of a 3-wheeled ATV shall not
24 knowingly permit the vehicle to be operated by a child less than 16
25 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) The department shall implement a comprehensive ORV
4 information, safety education, and training program that shall
5 include the training of operators and the preparation and
6 dissemination of information and safety advice to the public. The
7 program shall provide for the training of youthful operators and
8 for the issuance of ORV safety certificates to those who
9 successfully complete the training provided under the program and
10 may include separate instruction for each type of ORV.

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

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

22 (11) The department may promulgate rules to implement
23 subsections (8) to (10) **AND (18)**.

24 (12) Subject to subsections (13), (14), ~~and (17)~~, **AND (18)**, a
25 child who is less than 16 years of age may operate an ORV if the
26 child is under the direct visual supervision of an adult and the
27 child has in his or her immediate possession an ORV safety

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

4 (13) ~~A~~**SUBJECT TO SUBSECTION (18)**, A child who is less than 12
5 years of age shall not operate a 4-wheeled ATV, unless the child is
6 not less than 10 years of age and is on private land owned by a
7 parent or legal guardian of the child. This subsection does not
8 apply to the operation of an ATV used in agricultural operations.

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

11 (15) ~~When~~**SUBJECT TO SUBSECTION (18)**, ~~WHEN~~ operating an ORV
12 under subsection (12), a child shall present the ORV safety
13 certificate to a peace officer upon demand.

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

22 (17) The requirement of possession or presentation of an ORV
23 safety certificate under this section does not apply until
24 implementation of the program for the vehicle proposed to be
25 operated required by subsection (8).

26 **(18) THE REQUIREMENT THAT A CHILD POSSESS AN ORV SAFETY**
27 **CERTIFICATE TO OPERATE AN ORV, AND THE REQUIREMENT THAT A CHILD WHO**

1 IS LESS THAN 12 YEARS OF AGE NOT OPERATE A 4-WHEELED ATV UNLESS THE
2 CHILD IS NOT LESS THAN 10 YEARS OF AGE AND IS ON PRIVATE LAND OWNED
3 BY A PARENT OR LEGAL GUARDIAN OF THE CHILD, DO NOT APPLY IF ALL OF
4 THE FOLLOWING REQUIREMENTS ARE MET:

5 (A) THE CHILD IS PARTICIPATING IN AN ORGANIZED ORV RIDING OR
6 RACING EVENT HELD ON LAND NOT OWNED BY THIS STATE.

7 (B) THE CHILD'S PARENT OR LEGAL GUARDIAN HAS PROVIDED THE
8 EVENT ORGANIZER WITH WRITTEN PERMISSION FOR THE CHILD TO
9 PARTICIPATE IN THE EVENT.

10 (C) THE EVENT ORGANIZER HAS NOT LESS THAN \$500,000.00
11 LIABILITY INSURANCE COVERAGE FOR THE EVENT.

12 (D) A PHYSICIAN OR PHYSICIAN'S ASSISTANT LICENSED OR OTHERWISE
13 AUTHORIZED UNDER PART 170 OR 175 OF THE PUBLIC HEALTH CODE, 1978 PA
14 368, MCL 333.17001 TO 333.17084 AND 333.17501 TO 333.17556, OR A
15 PARAMEDIC OR EMERGENCY MEDICAL TECHNICIAN LICENSED UNDER PART 209
16 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.20901 TO 333.20979,
17 IS PRESENT AT THE SITE OF THE EVENT OR AVAILABLE ON CALL.

18 (E) THE EVENT IS AT ALL TIMES UNDER THE DIRECT VISUAL
19 SUPERVISION OF ADULT STAFF OF THE EVENT ORGANIZER AND A STAFF
20 MEMBER SERVES AS A FLAGGER TO WARN ORV RIDERS IF ANOTHER ORV RIDER
21 IS INJURED OR AN ORV IS INOPERABLE IN THE ORV OPERATING AREA.

22 (F) FENCING OR ANOTHER MEANS OF CROWD CONTROL IS USED TO KEEP
23 SPECTATORS OUT OF THE ORV OPERATING AREA.

24 (G) IF THE EVENT IS ON A CLOSED COURSE, DUST IS CONTROLLED IN
25 THE ORV OPERATING AREA AND THE RIDING SURFACE IN THE ORV OPERATING
26 AREA IS OTHERWISE PROPERLY PREPARED.

27 (H) THREE-WHEELED ATVS ARE NOT USED BY PARTICIPANTS.

Senate Bill No. 296 (H-1) as amended June 3, 2008

(I) ANY ATVS USED BY PARTICIPANTS ARE EQUIPPED WITH A SIDE STEP BAR OR COMPARABLE SAFETY EQUIPMENT AND WITH A TETHER KILL SWITCH, AND THE TETHER IS USED BY ALL PARTICIPANTS.

(J) EACH PARTICIPANT IN THE EVENT WEARS A CRASH HELMET APPROVED BY THE UNITED STATES DEPARTMENT OF TRANSPORTATION, A PROTECTIVE LONG-SLEEVED SHIRT OR JACKET, LONG PANTS, BOOTS, AND PROTECTIVE GLOVES.

(K) ANY OTHER APPLICABLE REQUIREMENTS OF THIS PART OR RULES PROMULGATED UNDER THIS PART ARE MET.

[(19) IF A CHILD LESS THAN 16 YEARS OF AGE PARTICIPATES AND IS INJURED IN AN ORGANIZED ORV RIDING OR RACING EVENT, THE ORGANIZER OF THE EVENT SHALL, WITHIN 30 DAYS AFTER THE EVENT, SUBMIT TO THE DEPARTMENT A REPORT ON A FORM DEVELOPED BY THE DEPARTMENT. THE REPORT SHALL INCLUDE ALL OF THE FOLLOWING, AS APPLICABLE:

(A) WHETHER ANY PARTICIPANT LESS THAN 16 YEARS OF AGE WAS KILLED OR SUFFERED AN INJURY RESULTING IN TRANSPORTATION TO A HOSPITAL AS A RESULT OF AN ORV ACCIDENT AT THE EVENT.

(B) THE AGE OF THE CHILD.

(C) WHETHER THE CHILD HAD BEEN ISSUED AN ORV SAFETY CERTIFICATE UNDER THIS PART OR A COMPARABLE ORV SAFETY CERTIFICATE ISSUED UNDER THE AUTHORITY OF ANOTHER STATE OR THE PROVINCE OF CANADA.

(D) THE TYPE OF ORV OPERATED.

(E) A DESCRIPTION OF THE ACCIDENT AND INJURY.

(20) BY DECEMBER 31 OF EACH YEAR, THE DEPARTMENT SHALL SUBMIT TO THE LEGISLATURE A REPORT THAT SUMMARIZES REPORTS RECEIVED UNDER SUBSECTION (19) DURING THE PRECEDING CALENDAR YEAR. IN THE REPORT, THE DEPARTMENT MAY RECOMMEND AMENDMENTS TO THIS PART TO IMPROVE THE SAFETY OF CHILDREN LESS THAN 16 YEARS OF AGE PARTICIPATING IN ORGANIZED ORV RIDING OR RACING EVENTS.]