

HOUSE BILL No. 4411

February 24, 2009, Introduced by Rep. Sheltrown and referred to the Committee on Tourism, Outdoor Recreation and Natural Resources.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 81133 (MCL 324.81133), as amended by 2008 PA
365.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 81133. (1) A person shall not operate an ORV:

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

5 (b) Unless the person and any passenger in or on the vehicle
6 is wearing on his or her head a crash helmet and protective eyewear
7 approved by the United States department of transportation. This
8 subdivision does not apply if the vehicle is equipped with a roof
9 that meets or exceeds standards for a crash helmet and the operator

1 and each passenger is wearing a properly adjusted and fastened
2 safety belt.

3 (c) During the hours of 1/2 hour after sunset to 1/2 hour
4 before sunrise without displaying a lighted headlight and lighted
5 taillight. The requirements of this subdivision are in addition to
6 any applicable requirements of section 81131(8).

7 (d) Unless equipped with a braking system that may be operated
8 by hand or foot, capable of producing deceleration at 14 feet per
9 second on level ground at a speed of 20 miles per hour; a brake
10 light, brighter than the taillight, visible when the brake is
11 activated to the rear of the vehicle when the vehicle is operated
12 during the hours of 1/2 hour after sunset and 1/2 hour before
13 sunrise; and a throttle so designed that when the pressure used to
14 advance the throttle is removed, the engine speed will immediately
15 and automatically return to idle.

16 (e) ~~In~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2),** IN a
17 state game area or state park or recreation area, except on roads,
18 trails, or areas designated for this purpose; on state owned lands
19 under the control of the department other than game areas, state
20 parks, or recreational areas where the operation would be in
21 violation of rules promulgated by the department; in a forest
22 nursery or planting area; on public lands posted or reasonably
23 identifiable as an area of forest reproduction, and when growing
24 stock may be damaged; in a dedicated natural area of the
25 department; or in any area in such a manner as to create an erosive
26 condition, or to injure, damage, or destroy trees or growing crops.
27 However, the department may permit an owner and guests of the owner

1 to use an ORV within the boundaries of a state forest in order to
2 access the owner's property.

3 (f) On the frozen surface of public waters within 100 feet of
4 a person not in or upon a vehicle, or within 100 feet of a fishing
5 shanty or shelter or an area that is cleared of snow for skating
6 purposes, except at the minimum speed required to maintain
7 controlled forward movement of the vehicle, or as may be authorized
8 by permit in special events.

9 (g) Unless the vehicle is equipped with a spark arrester type
10 United States forest service approved muffler, in good working
11 order and in constant operation. Exhaust noise emission shall not
12 exceed 86 Db(A) or 82 Db(A) on a vehicle manufactured after January
13 1, 1986, when the vehicle is under full throttle, traveling in
14 second gear, and measured 50 feet at right angles from the vehicle
15 path with a sound level meter that meets the requirement of ANSI
16 S1.4 1983, using procedure and ancillary equipment therein
17 described; or 99 Db(A) or 94 Db(A) on a vehicle manufactured after
18 January 1, 1986, or that level comparable to the current sound
19 level as provided for by the United States environmental protection
20 agency when tested according to the provisions of the current SAE
21 J1287, ~~June 86~~ **JULY 98** test procedure for exhaust levels of
22 stationary motorcycles, using sound level meters and ancillary
23 equipment therein described. A vehicle subject to this part,
24 manufactured or assembled after December 31, 1972 and used, sold,
25 or offered for sale in this state, shall conform to the noise
26 emission levels established by the United States environmental
27 protection agency under the noise control act of 1972, 42 USC 4901

1 to 4918.

2 (h) Within 100 feet of a dwelling at a speed greater than the
3 minimum required to maintain controlled forward movement of the
4 vehicle, except on property owned or under the operator's control
5 or on which the operator is an invited guest, or on a roadway,
6 forest road, or forest trail maintained by or under the
7 jurisdiction of the department, or on a road or street on which ORV
8 use is authorized ~~pursuant to~~ **UNDER** section 81131(2), (3), or (5).

9 (i) In or upon the lands of another without the written
10 consent of the owner, the owner's agent, or a lessee, when required
11 by part 731. The operator of the vehicle is liable for damage to
12 private property, including, but not limited to, damage to trees,
13 shrubs, or growing crops, injury to other living creatures, or
14 damage caused through vehicle operation in a manner so as to create
15 erosive or other ecological damage. The owner of the private
16 property may recover from the person responsible nominal damages of
17 not less than the amount of damage or injury. Failure to post
18 private property or fence or otherwise enclose in a manner to
19 exclude intruders or of the private property owner or other
20 authorized person to personally communicate against trespass does
21 not imply consent to ORV use.

22 (j) In an area on which public hunting is permitted during the
23 regular November firearm deer season from 7 a.m. to 11 a.m. and
24 from 2 p.m. to 5 p.m., except during an emergency or for law
25 enforcement purposes, to go to and from a permanent residence or a
26 hunting camp otherwise inaccessible by a conventional wheeled
27 vehicle, to remove from public land a deer, elk, or bear that has

1 been taken under a valid license; except for the conduct of
2 necessary work functions involving land and timber survey,
3 communication and transmission line patrol, and timber harvest
4 operations; or except on property owned or under control of the
5 operator or on which the operator is an invited guest. A hunter
6 removing game under this subdivision may leave the designated trail
7 or forest road only to retrieve the game and shall not exceed 5
8 miles per hour. A vehicle registered under the code is exempt from
9 this subdivision while operating on a public highway or public or
10 private road capable of sustaining automobile traffic. A person
11 holding a valid permit to hunt from a standing vehicle issued under
12 part 401, or a person with disabilities using an ORV to access
13 public lands for purposes of hunting or fishing through use of a
14 designated trail or forest road, is exempt from this subdivision. A
15 person holding a valid permit to hunt from a standing vehicle
16 issued under part 401, or a person with disabilities using an ORV
17 to access public lands for purposes of hunting or fishing, may
18 display a flag, the color of which the department shall determine,
19 to identify himself or herself as a person with disabilities or a
20 person holding a permit to hunt from a standing vehicle under part
21 401.

22 (k) While transporting on the vehicle a bow unless unstrung or
23 encased, or a firearm unless unloaded and securely encased, or
24 equipped with and made inoperative by a manufactured keylocked
25 trigger housing mechanism.

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

1 (m) Within 100 feet of a slide, ski, or skating area, unless
2 the vehicle is being used for the purpose of servicing the area or
3 ~~is being operated pursuant to~~ **AUTHORIZED TO BE OPERATED UNDER**
4 section 81131(2), (3), or (5).

5 (n) On an operating or nonabandoned railroad or railroad
6 right-of-way, or public utility right-of-way, other than for the
7 purpose of crossing at a clearly established site intended for
8 vehicular traffic, except railroad, public utility, or law
9 enforcement personnel while in performance of their duties, and
10 except if the right-of-way is designated as provided for in section
11 81127.

12 (o) In or upon the waters of any stream, river, bog, wetland,
13 swamp, marsh, or quagmire except over a bridge, culvert, or similar
14 structure.

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

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

18 (r) In a manner contrary to operating regulations on public
19 lands.

20 (s) While transporting or possessing, in or on the vehicle,
21 alcoholic liquor in a container that is open or uncapped or upon
22 which the seal is broken, except under either of the following
23 circumstances:

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

26 (ii) If the vehicle does not have a trunk or compartment
27 separate from the passenger compartment, the container is encased

1 or enclosed.

2 (t) While transporting any passenger in or upon an ORV unless
3 the manufacturing standards for the vehicle make provisions for
4 transporting passengers.

5 (u) On adjacent private land, in an area zoned residential,
6 within 300 feet of a dwelling at a speed greater than the minimum
7 required to maintain controlled forward movement of the vehicle
8 except on a roadway, forest road, or forest trail maintained by or
9 under the jurisdiction of the department, or on a road or street on
10 which ORV use is authorized ~~pursuant to~~ **UNDER** section 81131(2),
11 (3), or (5).

12 **(2) A PERSON NOT LESS THAN 60 YEARS OF AGE OR A PERSON WITH A**
13 **DISABILITY MAY OPERATE AN ATV ON A NONDESIGNATED TRAIL, ROUTE, OR**
14 **AREA FOR PLEASURE OR HUNTING OR TO ACCESS A DESIGNATED TRAIL,**
15 **ROUTE, OR AREA. AS USED IN THIS SUBSECTION, "PERSON WITH A**
16 **DISABILITY" MEANS THAT TERM AS DEFINED IN SECTION 103 OF THE**
17 **PERSONS WITH DISABILITIES CIVIL RIGHTS ACT, 1976 PA 220, MCL**
18 **37.1103.**