

HOUSE BILL No. 6162

May 12, 2010, Introduced by Rep. Caul 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 sections 81131, 81132, 81133, 81134, 81135, 81136, 81137, 81139, 81140, 81140a, 81141, 81142, 81143, 81144, 81145, 81146, 81147, 81148, 81149, and 82156a (MCL 324.81131, 324.81132, 324.81133, 324.81134, 324.81135, 324.81136, 324.81137, 324.81139, 324.81140, 324.81140a, 324.81141, 324.81142, 324.81143, 324.81144, 324.81145, 324.81146, 324.81147, 324.81148, 324.81149, and 324.82156a), section 81131 as amended by 2009 PA 175, sections 81132, 81137, 81139, 81140, 81142, 81143, 81144, 81145, 81146, 81148, and 81149 as added by 1995 PA 58, section 81133 as amended by 2008 PA 365, section 81134 as amended by 2001 PA 12, section 81135 as amended by 1999 PA 22, sections 81136 and 81141 as amended by 1996 PA 175, section 81140a as added by 1999 PA 43, section

81147 as amended by 2008 PA 240, and section 82156a as added by 1997 PA 102.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 81131. (1) A municipality may pass an ordinance allowing
2 a permanently disabled person to operate an ~~ORV~~-OHV in that
3 municipality.

4 (2) Subject to subsections (4) and (7), the county board of
5 commissioners of ~~an eligible~~-A county may adopt an ordinance
6 authorizing the operation of ~~ORVs~~-OHVS on the maintained portion of
7 1 or more roads located within the county, **INCLUDING THE SHOULDERS**
8 **OF THOSE ROADS**. Not less than 45 days before a public hearing on
9 the ordinance, the county clerk shall send notice of the public
10 hearing, by certified mail, to the county road commission and, if
11 state forestland is located within the county, to the department.
12 **THE COUNTY SHALL NOT CHARGE A FEE FOR THE OPERATION OF OHVS ON**
13 **THOSE ROADS. FOR PURPOSES OF THIS SUBSECTION, "ROAD LOCATED WITHIN**
14 **THE COUNTY" INCLUDES ANY ROAD PASSING THROUGH OR ALONG FEDERAL LAND**
15 **LOCATED WITHIN THAT COUNTY IF MORE THAN 50% OF THE FUNDS USED TO**
16 **MAINTAIN THE ROAD COME FROM STATE OR LOCAL SOURCES.**

17 (3) Subject to subsections (4) and (7), beginning July 17,
18 2009, the township board of a township ~~located in an eligible~~
19 ~~county~~ may adopt an ordinance authorizing the operation of ~~ORVs~~
20 OHVS on the maintained portion of 1 or more roads located within
21 the township, **INCLUDING THE SHOULDERS OF THOSE ROADS**. Not less than
22 28 days before a public hearing on the ordinance, the township
23 clerk shall send notice of the public hearing, by certified mail,
24 to the county road commission and, if state forestland is located

1 within the township, to the department. **THE TOWNSHIP SHALL NOT**
2 **CHARGE A FEE FOR THE OPERATION OF OHVS ON THOSE ROADS. FOR PURPOSES**
3 **OF THIS SUBSECTION, "ROAD LOCATED WITHIN THE TOWNSHIP" INCLUDES ANY**
4 **ROAD PASSING THROUGH OR ALONG FEDERAL LAND LOCATED WITHIN THAT**
5 **TOWNSHIP IF MORE THAN 50% OF THE FUNDS USED TO MAINTAIN THE ROAD**
6 **COME FROM STATE OR LOCAL SOURCES.**

7 (4) The board of county road commissioners may close a road to
8 the operation of ~~ORVs~~**OHVS** under subsection (2) or (3) ~~to protect~~
9 ~~the environment or if the operation of ORVs under subsection (2) or~~
10 ~~(3) poses a particular and demonstrable threat to public safety~~ **IF**
11 **OHV USAGE HAS CREATED A SIGNIFICANT THREAT TO PUBLIC SAFETY OR**
12 **EXTRAORDINARY DAMAGE TO THE ENVIRONMENT OR A ROAD, INCLUDING THE**
13 **SHOULDER OF THE ROAD.** A county road commission shall not under this
14 subsection close more than ~~30%~~**10%** of the linear miles of roads
15 located within the county to the operation of ~~ORVs~~**OHVS** under
16 subsection (2) or (3). The township board of a township ~~located in~~
17 ~~an eligible county~~ may adopt an ordinance to close a road to the
18 operation of ~~ORVs~~**OHVS** under subsection (2).

19 (5) Subject to subsection (7), the legislative body of a
20 municipality ~~located in an eligible county~~ may adopt an ordinance
21 authorizing the operation of ~~ORVs~~**OHVS** on the maintained portion of
22 1 or more streets within the municipality, **INCLUDING THE SHOULDERS**
23 **OF THOSE STREETS. THE MUNICIPALITY SHALL NOT CHARGE A FEE FOR THE**
24 **OPERATION OF OHVS ON THOSE STREETS. FOR PURPOSES OF THIS**
25 **SUBSECTION, "STREETS WITHIN THE MUNICIPALITY" INCLUDES ANY STREET**
26 **PASSING THROUGH OR ALONG FEDERAL LAND LOCATED WITHIN THAT**
27 **MUNICIPALITY IF MORE THAN 50% OF THE FUNDS USED TO MAINTAIN THE**

1 **STREET COME FROM STATE OR LOCAL SOURCES.**

2 (6) Subject to subsections (4) and (7), if a local unit of
3 government adopts an ordinance ~~pursuant to~~ **UNDER** subsection (2),
4 (3), or (5), a person may operate an ~~ORV~~ **OHV** with the flow of
5 traffic on the far right of the maintained portion of the road or
6 street covered by the ordinance, **INCLUDING THE SHOULDER OF THAT**
7 **ROAD OR STREET.** A person shall not operate an ~~ORV pursuant to~~ **OHV**
8 **UNDER** subsection (2), (3), or (5) at a speed greater than 25 miles
9 per hour or a lower posted ~~ORV~~ **OHV** speed limit or in a manner that
10 interferes with traffic on the road or street. Unless the person
11 possesses a license as defined in section 25 of the Michigan
12 vehicle code, 1949 PA 300, MCL 257.25, a person shall not operate
13 an ~~ORV pursuant to~~ **OHV UNDER** subsection (2), (3), or (5) if the ~~ORV~~
14 **OHV** is registered as a motor vehicle under chapter II of the
15 Michigan vehicle code, 1949 PA 300, MCL 257.201 to 257.259, and
16 either is more than 60 inches wide or has 3 wheels. ~~ORVs~~ **OHVs**
17 operated ~~pursuant to~~ **UNDER** subsection (2), (3), or (5) shall travel
18 single file, except that an ~~ORV~~ **OHV** may travel abreast of another
19 ~~ORV~~ **OHV** when it is overtaking and passing, or being overtaken and
20 passed by, another ~~ORV~~ **OHV**.

21 (7) ~~Subsections (2) to (6) and an ordinance adopted under~~
22 ~~subsection (2), (3), or (5) do not apply after July 16, 2013.~~ **THE**
23 **STATE TRANSPORTATION COMMISSION MAY AUTHORIZE THE OPERATION OF OHVS**
24 **ON ANY HIGHWAY OR PORTION OF A HIGHWAY IN THIS STATE, INCLUDING THE**
25 **SHOULDERS OF THOSE HIGHWAYS. THE DESIGNATION MAY BE MADE ON A**
26 **PERMANENT, SEASONAL, OR TEMPORARY BASIS. THE STATE TRANSPORTATION**
27 **COMMISSION SHALL NOT CHARGE A FEE FOR THE OPERATION OF OHVS ON**

1 THOSE HIGHWAYS. A PERSON OPERATING AN OHV ON A HIGHWAY OR PORTION
2 OF A HIGHWAY IS SUBJECT TO THE SAME REQUIREMENTS FOR OPERATION AS
3 PROVIDED FOR UNDER SUBSECTION (6). FOR PURPOSES OF THIS SUBSECTION,
4 "HIGHWAY OR PORTION OF A HIGHWAY IN THIS STATE" INCLUDES ANY
5 HIGHWAY OR PORTION OF A HIGHWAY PASSING THROUGH OR ALONG FEDERAL
6 LAND LOCATED WITHIN THIS STATE IF MORE THAN 50% OF THE FUNDS USED
7 TO MAINTAIN THE HIGHWAY OR PORTION OF A HIGHWAY COME FROM STATE OR
8 LOCAL SOURCES.

9 (8) In addition to any applicable requirement of section
10 81133(c), a person shall not operate an ~~ORV pursuant to~~ **OHV UNDER**
11 this section when visibility is substantially reduced due to
12 weather conditions without displaying a lighted headlight and
13 lighted taillight. Beginning January 1, 2010, a person, **OTHER THAN**
14 **A PERSON OPERATING AN OHV IN AN ORGANIZED OHV EVENT BETWEEN THE**
15 **HOURS OF SUNRISE AND SUNSET**, shall not operate an ~~ORV pursuant to~~
16 **OHV UNDER** this section without displaying a lighted headlight and
17 lighted taillight.

18 (9) A person under 18 years of age shall not operate an ~~ORV~~
19 ~~pursuant to~~ **OHV UNDER** this section unless the person is in
20 possession of a valid driver license or under the direct
21 supervision of a parent or guardian and the person has in his or
22 her immediate possession an ~~ORV-OHV~~ safety certificate issued
23 ~~pursuant to~~ **UNDER** this part or a comparable ~~ORV-OHV~~ safety
24 certificate issued under the authority of another state or a
25 province of Canada. A person under 12 years of age shall not
26 operate an ~~ORV pursuant to~~ **OHV UNDER** this section. The requirements
27 of this subsection are in addition to any applicable requirements

1 of section 81129.

2 (10) A township that has authorized the operation of ~~ORVs-OHVS~~
 3 on a road under subsection (3) **AND THIS STATE FOR A HIGHWAY OPEN**
 4 **FOR USE UNDER SUBSECTION (7)** does not have a duty to maintain the
 5 road, **STREET, OR HIGHWAY** in a condition reasonably safe and
 6 convenient for the operation of ~~ORVs-OHVS~~. ~~A-THIS STATE, A~~ board of
 7 county road commissioners, a county board of commissioners, or a
 8 municipality does not have a duty to maintain a road, ~~or-street, OR~~
 9 **HIGHWAY** under its jurisdiction in a condition reasonably safe and
 10 convenient for the operation of ~~ORVs-OHVS~~, except the following
 11 ~~ORVs-OHVS~~:

12 (a) ~~ORVs-OHVS~~ registered as motor vehicles as provided in the
 13 code.

14 (b) ~~ORVs-OHVS~~ permitted by an ordinance as provided in
 15 subsection (1).

16 (11) ~~Beginning October 19, 1993-THIS STATE,~~ a board of county
 17 road commissioners, a county board of commissioners, ~~and a county,~~
 18 ~~are, and , beginning on April 25, 1995, a municipality is, ARE~~
 19 immune from tort liability for injuries or damages sustained by any
 20 person arising in any way out of the operation or use of an ~~ORV-OHV~~
 21 on maintained or unmaintained roads, streets, shoulders, and
 22 rights-of-way over which **THIS STATE,** the board of county road
 23 commissioners, the county board of commissioners, or the
 24 municipality has jurisdiction. The immunity provided by this
 25 subsection does not apply to actions that constitute gross
 26 negligence. As used in this subsection, "gross negligence" means
 27 conduct so reckless as to demonstrate a substantial lack of concern

1 for whether an injury results.

2 (12) In a court action in this state, if competent evidence
3 demonstrates that a vehicle that is permitted to operate on a road
4 or street pursuant to the code was in a collision with an ~~ORV~~-OHV
5 required to be operated on the far right of the maintained portion
6 of a road or street pursuant to an ordinance adopted under
7 subsection (2), (3), or (5), **OR ON A HIGHWAY OPEN FOR USE UNDER**
8 **SUBSECTION (7)**, the operator of the ~~ORV shall be~~-OHV **IS** considered
9 prima facie negligent.

10 (13) A violation of an ordinance described in this section is
11 a municipal civil infraction. The ordinance may provide for a
12 maximum fine of not more than \$500.00 for a violation of the
13 ordinance. In addition, the court shall order the defendant to pay
14 the cost of repairing any damage to the environment, a road or
15 street, or public property damaged as a result of the violation.

16 (14) The treasurer of the local unit of government shall
17 deposit fines collected by that local unit of government under
18 section 8379 of the revised judicature act of 1961, 1961 PA 236,
19 MCL 600.8379, and subsection (13) and damages collected under
20 subsection (13) into a fund to be designated as the "~~ORV~~-OHV
21 fund". The legislative body of the local unit of government shall
22 appropriate revenue in the ~~ORV~~-OHV fund as follows:

23 (a) Fifty percent to the county sheriff or police department
24 responsible for law enforcement in the local unit of government for
25 ~~ORV~~-OHV enforcement and training.

26 (b) Fifty percent to the board of county road commissioners
27 or, in the case of a city or village, to the department responsible

1 for street maintenance in the city or village, for repairing damage
 2 to roads or streets and the environment that may have been caused
 3 by ~~ORVs~~**OHVS** and for posting signs indicating ~~ORV~~**OHV** speed limits
 4 or indicating whether roads or streets are open or closed to the
 5 operation of ~~ORVs~~**OHVS** under this section.

6 (15) As used in this section:

7 ~~— (a) "Eligible county" means any of the following:~~

8 ~~— (i) Mason, Lake, Osceola, Clare, Gladwin, Arenac, or Bay county~~
 9 ~~or a county lying north thereof, including all of the counties of~~
 10 ~~the Upper Peninsula.~~

11 ~~— (ii) Huron, Tuscola, Sanilac, Saginaw, Gratiot, Montcalm, or~~
 12 ~~St. Clair county.~~

13 (A) ~~(b)~~ "Local unit of government" means a county, township,
 14 or municipality.

15 (B) ~~(c)~~ "Municipality" means a city or village.

16 (C) ~~(d)~~ "Road" means a county primary road or county local
 17 road as described in section 5 of 1951 PA 51, MCL 247.655.

18 (D) ~~(e)~~ "Street" means a city or village major street or city
 19 or village local street as described in section 9 of 1951 PA 51,
 20 MCL 247.659.

21 Sec. 81132. (1) The department may promulgate rules governing
 22 the operation and conduct of ~~ORVs~~**OHVS**, vehicle speed limits, use
 23 of vehicles by day and hour, and the establishment and designation
 24 of areas within which vehicles may be used in a manner compatible
 25 with, and that will best protect, the public safety and general
 26 welfare on the frozen surface of public waters, and that will
 27 preserve the submerged marshlands adjacent to the borders of the

1 Great Lakes, ~~lake~~**LAKE** St. Clair, and the navigable inland waters
2 of the state.

3 (2) The department, on its own initiative or upon receipt of a
4 certified resolution of the governing body of a local unit of
5 government may initiate investigations into the need for special
6 rules governing the operation of vehicles on the frozen surface of
7 public waters and the submerged marshlands adjacent to the borders
8 of the Great Lakes, ~~lake~~**LAKE** St. Clair, and the navigable inland
9 waters of the state. If controls for that activity are considered
10 necessary, or when the amendment or rescission of an existing rule
11 is required, a rule shall be prepared. Notice of a public hearing
12 shall be made not less than 10 days prior to the hearing, in a
13 newspaper of general circulation in the area within which the rules
14 are to be imposed, amended, or rescinded.

15 (3) The proposed rule shall then be submitted to the governing
16 body of the political subdivision in which the affected frozen
17 waters or marshes lie. Within 30 calendar days, the governing body
18 shall inform the department that it approves or disapproves of the
19 proposed rule. If the governing body disapproves the proposed rule,
20 further action shall not be taken. If the governing body approves
21 the proposed rule, a local ordinance may be enacted which shall be
22 identical to the rule, and which ordinance shall not be effective
23 until the rule is in effect in accordance with law. The department
24 shall then promulgate the rule.

25 (4) When an ordinance is enacted under the authority of a
26 rule, and that rule is subsequently suspended by the legislature,
27 or amended or rescinded by the department, the ordinance shall also

1 be suspended, amended, or repealed.

2 (5) A local law enforcement officer may enforce an ordinance
3 enacted ~~pursuant to~~ **UNDER** this section, and a state law enforcement
4 officer shall enforce a rule promulgated under this section.

5 Sec. 81133. (1) A person shall not operate an ~~ORV~~ **OHV IN**
6 **VIOLATION OF ANY OF THE FOLLOWING:**

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

10 (b) Unless the person and any passenger in or on the vehicle
11 is wearing on his or her head a crash helmet and protective eyewear
12 approved by the United States department of transportation. This
13 subdivision does not apply if the vehicle is equipped with a roof
14 that meets or exceeds standards for a crash helmet and the operator
15 and each passenger is wearing a properly adjusted and fastened
16 safety belt.

17 ~~—— (c) During the hours of 1/2 hour after sunset to 1/2 hour~~
18 ~~before sunrise without displaying a lighted headlight and lighted~~
19 ~~taillight. The requirements of this subdivision are in addition to~~
20 ~~any applicable requirements of section 81131(8).~~

21 (C) ~~(d)~~ Unless equipped with a braking system that may be
22 operated by hand or foot, capable of producing deceleration at 14
23 feet per second **PER SECOND** on level ground at a speed of 20 miles
24 per hour; a brake light, brighter than the taillight, visible when
25 the brake is activated to the rear of the vehicle when the vehicle
26 is operated during the hours of 1/2 hour after sunset and 1/2 hour
27 before sunrise; and a throttle so designed that when the pressure

1 used to advance the throttle is removed, the engine speed will
2 immediately and automatically return to idle.

3 (D) ~~(e)~~—In a state game area or state park or recreation area,
4 except on roads, trails, or areas designated for this purpose; on
5 state owned lands under the control of the department other than
6 game areas, state parks, or recreational areas where the operation
7 would be in violation of rules promulgated by the department; in a
8 forest nursery or planting area; on public lands posted or
9 reasonably identifiable as an area of forest reproduction, and when
10 growing stock may be damaged; in a dedicated natural area of the
11 department; or in any area in such a manner as to create an erosive
12 condition, or to injure, damage, or destroy trees or growing crops.
13 However, the department may permit an owner and guests of the owner
14 to use an ~~ORV~~—OHV within the boundaries of a state forest in order
15 to access the owner's property.

16 (E) ~~(f)~~—On the frozen surface of public waters within 100 feet
17 of a person not in or upon a vehicle, or within 100 feet of a
18 fishing shanty or shelter or an area that is cleared of snow for
19 skating purposes, except at the minimum speed required to maintain
20 controlled forward movement of the vehicle, or as may be authorized
21 by permit in special events.

22 (F) ~~(g)~~—Unless the vehicle is equipped with a spark arrester
23 type United States forest service approved muffler, in good working
24 order and in constant operation. Exhaust noise emission shall not
25 exceed 86 Db(A) or 82 Db(A) on a vehicle manufactured after January
26 1, 1986, when the vehicle is under full throttle, traveling in
27 second gear, and measured 50 feet at right angles from the vehicle

1 path with a sound level meter that meets the requirement of ANSI
2 S1.4 1983, using procedure and ancillary equipment therein
3 described; or 99 Db(A) or 94 Db(A) on a vehicle manufactured after
4 January 1, 1986, or that level comparable to the current sound
5 level as provided for by the United States environmental protection
6 agency when tested according to the provisions of the current SAE
7 J1287, June 86 test procedure for exhaust levels of stationary
8 motorcycles, using sound level meters and ancillary equipment
9 therein described. A vehicle subject to this part, manufactured or
10 assembled after December 31, 1972 and used, sold, or offered for
11 sale in this state, shall conform to the noise emission levels
12 established by the United States environmental protection agency
13 under the noise control act of 1972, 42 USC 4901 to 4918.

14 (G) ~~(h)~~—Within 100 feet of a dwelling at a speed greater than
15 the minimum required to maintain controlled forward movement of the
16 vehicle, except on property owned or under the operator's control
17 or on which the operator is an invited guest, or on a roadway,
18 forest road, or forest trail maintained by or under the
19 jurisdiction of the department, or on a road, ~~or~~ street, **OR HIGHWAY**
20 on which ~~ORV-OHV~~ use is authorized pursuant to section 81131(2),
21 (3), ~~or~~ (5), **OR (7)**.

22 (H) ~~(i)~~—In or upon the lands of another without the written
23 consent of the owner, the owner's agent, or a lessee, when required
24 by part 731. The operator of the vehicle is liable for damage to
25 private property, including, but not limited to, damage to trees,
26 shrubs, or growing crops, injury to other living creatures, or
27 damage caused through vehicle operation in a manner so as to create

1 erosive or other ecological damage. The owner of the private
2 property may recover from the person responsible nominal damages of
3 not less than the amount of damage or injury. Failure to post
4 private property or fence or otherwise enclose in a manner to
5 exclude intruders or of the private property owner or other
6 authorized person to personally communicate against trespass does
7 not imply consent to ~~ORV-OHV~~ use.

8 (I) ~~(j)~~—In an area on which public hunting is permitted during
9 the regular November firearm deer season from 7 a.m. to 11 a.m. and
10 from 2 p.m. to 5 p.m., except during an emergency or for law
11 enforcement purposes, to go to and from a permanent residence or a
12 hunting camp otherwise inaccessible by a conventional wheeled
13 vehicle, to remove from public land a deer, elk, or bear that has
14 been taken under a valid license; except for the conduct of
15 necessary work functions involving land and timber survey,
16 communication and transmission line patrol, and timber harvest
17 operations; or except on property owned or under control of the
18 operator or on which the operator is an invited guest. A hunter
19 removing game under this subdivision may leave the designated trail
20 or forest road only to retrieve the game and shall not exceed 5
21 miles per hour. A vehicle registered under the code is exempt from
22 this subdivision while operating on a public highway or public or
23 private road capable of sustaining automobile traffic. A person
24 holding a valid permit to hunt from a standing vehicle issued under
25 part 401, or a person with disabilities using an ~~ORV-OHV~~ to access
26 public lands for purposes of hunting or fishing through use of a
27 designated trail or forest road, is exempt from this subdivision. A

1 person holding a valid permit to hunt from a standing vehicle
2 issued under part 401, or a person with disabilities using an ~~ORV~~
3 **OHV** to access public lands for purposes of hunting or fishing, may
4 display a flag, the color of which the department shall determine,
5 to identify himself or herself as a person with disabilities or a
6 person holding a permit to hunt from a standing vehicle under part
7 401.

8 **(J)** ~~(k)~~—While transporting on the vehicle a bow unless
9 unstrung or encased, or a firearm unless unloaded and securely
10 encased, or equipped with and made inoperative by a manufactured
11 keylocked trigger housing mechanism.

12 **(K)** ~~(l)~~—On or across a cemetery or burial ground, or land used
13 as an airport.

14 **(L)** ~~(m)~~—Within 100 feet of a slide, ski, or skating area,
15 unless the vehicle is being used for the purpose of servicing the
16 area or is being operated pursuant to section 81131(2), (3), or
17 (5).

18 **(M)** ~~(n)~~—On an operating or nonabandoned railroad or railroad
19 right-of-way, or public utility right-of-way, other than for the
20 purpose of crossing at a clearly established site intended for
21 vehicular traffic, except railroad, public utility, or law
22 enforcement personnel while in performance of their duties, and
23 except if the right-of-way is designated as provided for in section
24 81127.

25 **(N)** ~~(o)~~—In or upon the waters of any stream, river, bog,
26 wetland, swamp, marsh, or quagmire except over a bridge, culvert,
27 or similar structure.

1 (O) ~~(p)~~—To hunt, pursue, worry, kill, or attempt to hunt,
2 pursue, worry, or kill an animal, whether wild or domesticated.

3 (P) ~~(q)~~—In a manner so as to leave behind litter or other
4 debris.

5 (Q) ~~(r)~~—In a manner contrary to operating regulations on
6 public lands.

7 (R) ~~(s)~~—While transporting or possessing, in or on the
8 vehicle, alcoholic liquor in a container that is open or uncapped
9 or upon which the seal is broken, except under either of the
10 following circumstances:

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

13 (ii) If the vehicle does not have a trunk or compartment
14 separate from the passenger compartment, the container is encased
15 or enclosed.

16 (S) ~~(t)~~—While transporting any passenger in or upon an ~~ORV~~—OHV
17 unless the manufacturing standards for the vehicle make provisions
18 for transporting passengers.

19 (T) ~~(u)~~—On adjacent private land, in an area zoned
20 residential, within 300 feet of a dwelling at a speed greater than
21 the minimum required to maintain controlled forward movement of the
22 vehicle except on a roadway, forest road, or forest trail
23 maintained by or under the jurisdiction of the department, or on a
24 road or street on which ~~ORV~~—OHV use is authorized pursuant to
25 section 81131(2), (3), or (5).

26 (2) **EACH PERSON WHO PARTICIPATES IN THE SPORT OF OHV**
27 **OPERATIONS ACCEPTS THE RISKS ASSOCIATED WITH THAT SPORT INSOFAR AS**

1 THE DANGERS ARE OBVIOUS AND INHERENT. THOSE RISKS INCLUDE, BUT ARE
2 NOT LIMITED TO, INJURIES TO PERSONS OR PROPERTY THAT CAN RESULT
3 FROM VARIATIONS IN TERRAIN; SURFACE OR SUBSURFACE SNOW OR ICE
4 CONDITIONS; BARE SPOTS; ROCKS, TREES, AND OTHER FORMS OF NATURAL
5 GROWTH OR DEBRIS; AND COLLISIONS WITH SIGNS, FENCES, OR OTHER OHVS
6 OR TRAIN MAINTENANCE EQUIPMENT. THOSE RISKS DO NOT INCLUDE INJURIES
7 TO PERSONS OR PROPERTY THAT CAN RESULT FROM THE USE OF AN OHV BY
8 ANOTHER PERSON IN A CARELESS OR NEGLIGENT MANNER LIKELY TO ENDANGER
9 PERSON OR PROPERTY. WHEN AN OHV IS OPERATED IN THE VICINITY OF A
10 RAILROAD RIGHT-OF-WAY, EACH PERSON WHO PARTICIPATES IN THE SPORT OF
11 OHV OPERATIONS ADDITIONALLY ASSUMES RISKS INCLUDING, BUT NOT
12 LIMITED TO, ENTANGLEMENT WITH TRACKS, SWITCHES, AND TIES AND
13 COLLISIONS WITH TRAINS AND OTHER EQUIPMENT AND FACILITIES.

14 Sec. 81134. (1) A person who is under the influence of
15 intoxicating liquor or a controlled substance, as defined by
16 section 7104 of the public health code, 1978 PA 368, MCL 333.7104,
17 or a combination of intoxicating liquor and a controlled substance
18 shall not operate an ~~ORV~~-OHV.

19 (2) A person who has an alcohol content of 0.10 grams or more
20 per 100 milliliters of blood, per 210 liters of breath, or per 67
21 milliliters of urine shall not operate an ~~ORV~~-OHV.

22 (3) The owner or person in charge or in control of an ~~ORV~~-OHV
23 shall not authorize or knowingly permit the ~~ORV~~-OHV to be operated
24 by a person who is under the influence of intoxicating liquor or a
25 controlled substance or a combination of intoxicating liquor and a
26 controlled substance.

27 (4) Except as otherwise provided in this section, a person who

1 is convicted of a violation of subsection (1), (2), or (3) is
2 guilty of a misdemeanor, punishable by imprisonment for not more
3 than 93 days, or a fine of not less than \$100.00 or more than
4 \$500.00, or both, together with costs of the prosecution. As part
5 of the sentence for a violation of subsection (1) or (2), the court
6 shall order the person convicted not to operate an ~~ORV-OHV~~ for a
7 period of not less than 6 months or more than 2 years.

8 (5) On a second conviction under subsection (1) or (2) or a
9 local ordinance substantially corresponding to subsection (1) or
10 (2) within a period of 7 years, a person is guilty of a
11 misdemeanor, punishable by imprisonment for not more than 1 year,
12 or a fine of not more than \$1,000.00, or both. As part of the
13 sentence, the court shall order the person convicted not to operate
14 an ~~ORV-OHV~~ for a period of not less than 1 year or more than 2
15 years.

16 (6) On a third or subsequent conviction within a period of 10
17 years under subsection (1) or (2) or a local ordinance
18 substantially corresponding to subsection (1) or (2), a person is
19 guilty of a felony and shall be sentenced to imprisonment for not
20 less than 1 year or more than 5 years, or a fine of not less than
21 \$500.00 or more than \$5,000, or both. As part of the sentence, the
22 court shall order the person convicted not to operate an ~~ORV-OHV~~
23 for a period of not less than 1 year or more than 2 years.

24 (7) A person who operates an ~~ORV-OHV~~ in violation of
25 subsection (1) or (2) or section 81135 and by the operation of that
26 ~~ORV-OHV~~ causes the death of another person is guilty of a felony
27 punishable by imprisonment for not more than 15 years or a fine of

1 not less than \$2,500.00 or more than \$10,000.00, or both.

2 (8) A person who operates an ~~ORV~~-OHV within this state in
3 violation of subsection (1) or (2) or section 81135 and by the
4 operation of that ~~ORV~~-OHV causes a serious impairment of a body
5 function of another person is guilty of a felony punishable by
6 imprisonment for not more than 5 years or a fine of not less than
7 \$1,000.00 or more than \$5,000.00, or both. As used in this
8 subsection, "serious impairment of a body function" includes, but
9 is not limited to, 1 or more of the following:

10 (a) Loss of a limb or use of a limb.

11 (b) Loss of a hand, foot, finger, or thumb or use of a hand,
12 foot, finger, or thumb.

13 (c) Loss of an eye or ear or use of an eye or ear.

14 (d) Loss or substantial impairment of a bodily function.

15 (e) Serious visible disfigurement.

16 (f) A comatose state that lasts for more than 3 days.

17 (g) Measurable brain damage or mental impairment.

18 (h) A skull fracture or other serious bone fracture.

19 (i) Subdural hemorrhage or subdural hematoma.

20 (9) As part of the sentence for a violation of subsection (1)
21 or (2), or a local ordinance substantially corresponding to
22 subsection (1) or (2), the court may order the person to perform
23 service to the community, as designated by the court, without
24 compensation, for a period not to exceed 12 days. The person shall
25 reimburse the state or appropriate local unit of government for the
26 cost of insurance incurred by the state or local unit of government
27 as a result of the person's activities under this subsection.

1 (10) Before imposing sentence for a violation of subsection
2 (1) or (2) or a local ordinance substantially corresponding to
3 subsection (1) or (2), the court shall order the person to undergo
4 screening and assessment by a person or agency designated by the
5 office of substance abuse services, to determine whether the person
6 is likely to benefit from rehabilitative services, including
7 alcohol or drug education and alcohol or drug treatment programs.
8 As part of the sentence, the court may order the person to
9 participate in and successfully complete 1 or more appropriate
10 rehabilitative programs. The person shall pay for the costs of the
11 screening, assessment, and rehabilitative services.

12 (11) Before accepting a plea of guilty under this section, the
13 court shall advise the accused of the statutory consequences
14 possible as the result of a plea of guilty in respect to suspension
15 of the person's right to operate an ~~ORV~~**OHV** and the penalty imposed
16 for violation of this section.

17 (12) Each municipal judge and each clerk of a court of record
18 shall keep a full record of every case in which a person is charged
19 with a violation of this section. The municipal judge or clerk of
20 the court of record shall prepare and immediately forward to the
21 secretary of state an abstract of the court of record for each case
22 charging a violation of this section.

23 Sec. 81135. (1) A person shall not operate an ~~ORV~~**OHV** if, due
24 to the consumption of intoxicating liquor, a controlled substance,
25 as defined by section 7104 of the public health code, 1978 PA 368,
26 MCL 333.7104, or a combination of intoxicating liquor and a
27 controlled substance, the person has visibly impaired his or her

1 ability to operate the ~~ORV-OHV~~. If a person is charged with
2 violating section 81134, a finding of guilty is permissible under
3 this section.

4 (2) Except as otherwise provided in this section, a person
5 convicted of a violation of this section is guilty of a
6 misdemeanor, punishable by imprisonment for not more than 93 days,
7 or a fine of not more than \$300.00, or both, together with costs of
8 the prosecution. As part of the sentence, the court shall order the
9 person convicted not to operate an ~~ORV-OHV~~ for a period of not less
10 than 90 days or more than 1 year.

11 (3) A person who violates this section or a local ordinance
12 substantially corresponding to this section, and has 1 or more
13 prior convictions under this section or section 81134 or a local
14 ordinance substantially corresponding to this section or section
15 81134, is guilty of a misdemeanor, punishable by imprisonment for
16 not more than 1 year, or a fine of not more than \$1,000.00, or
17 both. If the person convicted has only 1 prior conviction described
18 in this subsection, as part of the sentence, the court shall order
19 the person not to operate an ~~ORV-OHV~~ for a period of not less than
20 6 months or more than 18 months. If the person has 2 or more prior
21 convictions described in this subsection, the court shall order the
22 person not to operate an ~~ORV-OHV~~ for a period of not less than 1
23 year or more than 2 years.

24 (4) As part of the sentence for a violation of this section or
25 a local ordinance substantially corresponding to this section, the
26 court may order the person to perform service to the community, as
27 designated by the court, without compensation, for a period not to

1 exceed 12 days. The person shall reimburse the state or appropriate
2 local unit of government for the cost of insurance incurred by the
3 state or local unit of government as a result of the person's
4 activities under this subsection.

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

16 (6) Before accepting a plea of guilty under this section, the
17 court shall advise the accused of the statutory consequences
18 possible as a result of a plea of guilty in respect to suspension
19 of the person's right to operate an ~~ORV~~~~OHV~~ and the penalty imposed
20 for violation of this section.

21 (7) Each municipal judge and each clerk of a court of record
22 shall keep a full record of every case in which a person is charged
23 with a violation of this section. The municipal judge or clerk of
24 the court of record shall prepare and immediately forward to the
25 secretary of state an abstract of the court of record for each case
26 charging a violation of this section.

27 Sec. 81136. (1) In a criminal prosecution for violating

1 section 81134 or 81135 or a local ordinance substantially
2 corresponding to section 81134 or 81135, or in a criminal
3 prosecution for negligent homicide or manslaughter resulting from
4 the operation of an ~~ORV~~-OHV while the operator is alleged to have
5 been impaired by or under the influence of intoxicating liquor or a
6 controlled substance or a combination of intoxicating liquor and a
7 controlled substance, or to have had a blood alcohol content of
8 0.10 grams or more per 100 milliliters of blood, per 210 liters of
9 breath, or per 67 milliliters of urine, the amount of alcohol in
10 the operator's blood at the time alleged as shown by chemical
11 analysis of the operator's blood, urine, or breath shall be
12 admissible into evidence.

13 (2) If a chemical test of an operator's blood, urine, or
14 breath is given, the results of the test shall be made available to
15 the person charged with an offense enumerated in subsection (1) or
16 the person's attorney upon written request to the prosecution, with
17 a copy of the request filed with the court. The prosecution shall
18 furnish the report at least 2 days before the day of the trial and
19 the results shall be offered as evidence by the prosecution in a
20 criminal proceeding. Failure to fully comply with the request shall
21 bar the admission of the results into evidence by the prosecution.

22 (3) Except in a prosecution relating solely to a violation of
23 section 81134(2), the amount of alcohol in the operator's blood at
24 the time alleged as shown by chemical analysis of the operator's
25 blood, urine, or breath shall give rise to the following
26 presumptions:

27 (a) If at the time the operator had an alcohol content of 0.07

1 grams or less per 100 milliliters of blood, per 210 liters of
2 breath, or per 67 milliliters of urine, it shall be presumed that
3 the operator was not under the influence of intoxicating liquor.

4 (b) If at the time the operator had an alcohol content of more
5 than 0.07 grams but less than 0.10 grams per 100 milliliters of
6 blood, per 210 liters of breath, or per 67 milliliters of urine, it
7 shall be presumed that the operator's ability to operate an ~~ORV~~**OHV**
8 was impaired within the provisions of section 81135 due to the
9 consumption of intoxicating liquor.

10 (c) If at the time the operator had an alcohol content of 0.10
11 grams or more per 100 milliliters of blood, per 210 liters of
12 breath, or per 67 milliliters of urine, it shall be presumed that
13 the operator was under the influence of intoxicating liquor.

14 (4) A sample or specimen of urine or breath shall be taken and
15 collected in a reasonable manner. Only a licensed physician, or a
16 licensed nurse or medical technician under the direction of a
17 licensed physician and qualified to withdraw blood acting in a
18 medical environment, at the request of a peace officer, may
19 withdraw blood for the purpose of determining the alcoholic content
20 of the blood under this part. Liability for a crime or civil
21 damages predicated on the act of withdrawing blood and related
22 procedures shall not attach to a qualified person who withdraws
23 blood or assists in the withdrawal in accordance with this part
24 unless the withdrawal is performed in a negligent manner.

25 (5) A person arrested for a crime enumerated in subsection (1)
26 who takes a chemical test administered at the request of a peace
27 officer, as provided in this part, shall be given a reasonable

1 opportunity to have a person of his or her own choosing administer
2 1 of the chemical tests described in this section within a
3 reasonable time after his or her detention, and the results of the
4 test shall be admissible and shall be considered with other
5 competent evidence in determining the defendant's innocence or
6 guilt of a crime enumerated in subsection (1). If the person
7 arrested is administered a chemical test by a person of his or her
8 own choosing, the person arrested shall be responsible for
9 obtaining a chemical analysis of the test sample. The person shall
10 be informed that he or she has the right to demand that a person of
11 his or her choosing administer 1 of the chemical tests described in
12 this section, that the results of the test shall be admissible and
13 shall be considered with other competent evidence in determining
14 the innocence or guilt of the defendant, and that the person
15 arrested shall be responsible for obtaining a chemical analysis of
16 the test sample.

17 (6) A person arrested shall be advised that if the person
18 refuses the request of a peace officer to take a test described in
19 this section, a test shall not be given without a court order. The
20 person arrested shall also be advised that the person's refusal of
21 the request of a peace officer to take a test described in this
22 section shall result in the suspension of the person's right to
23 operate an ~~ORV~~-OHV.

24 (7) This section shall not be construed as limiting the
25 introduction of any other competent evidence bearing upon the
26 question of whether or not the defendant was impaired by or under
27 the influence of intoxicating liquor or a controlled substance, or

1 a combination of intoxicating liquor and a controlled substance, or
2 whether the person had a blood alcohol content of 0.10 grams or
3 more per 100 milliliters of blood, per 210 liters of breath, or per
4 67 milliliters of urine.

5 (8) If a jury instruction regarding a defendant's refusal to
6 submit to a chemical test under this section is requested by the
7 prosecution or the defendant, the jury instruction shall be given
8 as follows:

9 "Evidence was admitted in this case which, if believed by the
10 jury, could prove that the defendant had exercised his or her right
11 to refuse a chemical test. You are instructed that such a refusal
12 is within the statutory rights of the defendant and is not evidence
13 of the defendant's guilt. You are not to consider such a refusal in
14 determining the guilt or innocence of the defendant."

15 (9) If after an accident the operator of an ~~ORV~~-OHV involved
16 in the accident is transported to a medical facility and a sample
17 of the operator's blood is withdrawn at that time for the purpose
18 of medical treatment, the results of a chemical analysis of that
19 sample shall be admissible in a criminal prosecution for a crime
20 described in subsection (1) to show the amount of alcohol or
21 presence of a controlled substance, or both, in the person's blood
22 at the time alleged, regardless of whether the person had been
23 offered or had refused a chemical test. The medical facility or
24 person performing the chemical analysis shall disclose the results
25 of the analysis to a prosecuting attorney who requests the results
26 for use in a criminal prosecution as provided in this subsection. A
27 medical facility or person disclosing information in compliance

1 with this subsection shall not be civilly or criminally liable for
2 making the disclosure.

3 (10) If after an accident the operator of an ~~ORV-OHV~~ involved
4 in the accident is deceased, a sample of the decedent's blood shall
5 be withdrawn in a manner directed by the medical examiner for the
6 purpose of determining blood alcohol content or presence of a
7 controlled substance, or both. The medical examiner shall give the
8 results of the chemical analysis to the law enforcement agency
9 investigating the accident, and that agency shall forward the
10 results to the department of state police.

11 Sec. 81137. (1) Except as provided in subsection (2), a person
12 who operates an ~~ORV-OHV~~ is considered to have given consent to
13 chemical tests of his or her blood, breath, or urine for the
14 purpose of determining the amount of alcohol or presence of a
15 controlled substance or both in his or her blood, and may be
16 requested by a peace officer to submit to chemical tests of his or
17 her blood, breath, or urine for the purpose of determining the
18 amount of alcohol or presence of a controlled substance or both in
19 his or her blood if:

20 (a) The person is arrested for a violation of section 81134(1)
21 or (2) or 81135 or a local ordinance substantially corresponding to
22 section 81134(1) or (2) or 81135.

23 (b) The person is arrested for negligent homicide or
24 manslaughter resulting from the operation of an ~~ORV-OHV~~, and the
25 peace officer has reasonable grounds to believe that the person was
26 operating the ~~ORV-OHV~~ while impaired by or under the influence of
27 intoxicating liquor, a controlled substance, or a combination of

1 intoxicating liquor and a controlled substance.

2 (2) A person who is afflicted with hemophilia, diabetes, or a
3 condition requiring the use of an anticoagulant under the direction
4 of a physician shall not be considered to have given consent to the
5 withdrawal of blood.

6 Sec. 81139. (1) Upon receipt of a report made pursuant to
7 section 81138, the secretary of state shall immediately notify the
8 person in a writing, mailed to the person's last known address,
9 that the report has been received and that within 14 days after the
10 date of the notice the person may request an administrative hearing
11 as provided in section 81140.

12 (2) The notice shall specifically state that failure to
13 request a hearing within 14 days shall result in the suspension of
14 the person's right to operate an ~~ORV~~**OHV** and that the person is not
15 required to retain counsel for the hearing, although counsel will
16 be permitted to represent the person at the hearing.

17 Sec. 81140. (1) If a person who refuses to submit to a
18 chemical test pursuant to section 81138 does not request an
19 administrative hearing within 14 days after the date of notice
20 pursuant to section 81139, the secretary of state shall suspend the
21 person's right to operate an ~~ORV~~**OHV** for a period of 6 months, or
22 for a second or subsequent refusal within a period of 7 years, for
23 1 year.

24 (2) If an administrative hearing is requested, the secretary
25 of state shall appoint a hearing officer to conduct the hearing.
26 Not less than 10 days' notice of the hearing shall be provided by
27 mail to the person submitting the request, to the peace officer who

1 filed the report under section 81138, and, if a prosecuting
2 attorney requests receipt of the notice, to the prosecuting
3 attorney of the county where the arrest was made. The hearing
4 officer may administer oaths and issue subpoenas for the attendance
5 of necessary witnesses, and may grant a reasonable request for an
6 adjournment. The hearing shall cover only the following issues:

7 (a) Whether the peace officer had reasonable grounds to
8 believe that the person committed a crime described in section
9 81137(1).

10 (b) Whether the person was placed under arrest for a crime
11 described in section 81137(1).

12 (c) Whether the person reasonably refused to submit to a
13 chemical test upon request of the officer.

14 (d) Whether the person was advised of his or her rights under
15 section 81136.

16 (3) An administrative hearing conducted under this section is
17 not a contested case for the purposes of chapter 4 of the
18 administrative procedures act of 1969, ~~Act No. 306 of the Public~~
19 ~~Acts of 1969, being sections 24.271 to 24.287 of the Michigan~~
20 ~~Compiled Laws 1969 PA 306, MCL 24.271 TO 24.287~~. The hearing shall
21 be conducted in an impartial manner. A final decision or order of a
22 hearing officer shall be made in writing or stated in the record,
23 and shall include findings of fact based exclusively on the
24 evidence presented and matters officially noticed, and shall
25 specify any sanction to be imposed against the person involved. A
26 copy of the final decision or order shall be delivered or mailed
27 immediately to the person and the peace officer.

1 (4) After the administrative hearing, if the person is found
2 to have unreasonably refused to submit to a chemical test, the
3 secretary of state shall suspend the person's right to operate an
4 ~~ORV-OHV~~ for a period of 6 months, or for a second or subsequent
5 refusal within a period of 7 years, for 1 year. Within 60 days
6 after the final decision or order is issued by the hearing officer,
7 the person may file a petition in the circuit court of the county
8 in which the arrest was made to review the suspension. The scope of
9 the court's review shall be limited to the issues provided in
10 section 106 of ~~Act No. 306 of the Public Acts of 1969, being~~
11 ~~section 24.306 of the Michigan Compiled Laws 1969 PA 306, MCL~~
12 **24.306.**

13 (5) The circuit court shall enter an order setting the cause
14 for hearing for a date certain that is not more than 60 days after
15 the date of the order. The order, a copy of the petition, which
16 shall include the person's full name, current address, birth date,
17 and driver's license number, and all supporting affidavits shall be
18 served on the secretary of state's office in Lansing not less than
19 50 days before the date set for the hearing. The department shall
20 cause a record to be made of the proceedings held pursuant to
21 subsection (2). The record shall be prepared and transcribed in
22 accordance with section 86 of ~~Act No. 306 of the Public Acts of~~
23 ~~1969, being section 24.286 of the Michigan Compiled Laws 1969 PA~~
24 **306, MCL 24.286.** Upon notification of the filing of a petition for
25 judicial review, the department shall transmit to the court in
26 which the petition was filed, not less than 10 days before the
27 matter is set for review, the original or a certified copy of the

1 official record of the proceedings.

2 Sec. 81140a. (1) If the operator's or chauffeur's license of a
3 person who is a resident of this state is suspended or revoked by
4 the secretary of state under the Michigan vehicle code, 1949 PA
5 300, MCL 257.1 to 257.923, or if the driver license of a person who
6 is a nonresident is suspended or revoked under the law of the state
7 in which he or she resides, that person shall not operate an ~~ORV~~
8 ~~OHV~~ under this part for the same period.

9 (2) A person who violates this section is guilty of a
10 misdemeanor punishable as follows:

11 (a) For a first conviction, imprisonment for not more than 93
12 days or a fine of not more than \$500.00, or both.

13 (b) For a second or subsequent conviction, imprisonment for
14 not more than 180 days or a fine of not more than \$1,000.00, or
15 both.

16 Sec. 81141. (1) A peace officer who has reasonable cause to
17 believe that a person was operating an ~~ORV~~~~OHV~~ and that the person
18 by the consumption of intoxicating liquor may have affected his or
19 her ability to operate the ~~ORV~~~~OHV~~, may require the person to
20 submit to a preliminary chemical breath analysis.

21 (2) A peace officer may arrest a person based in whole or in
22 part upon the results of a preliminary chemical breath analysis.

23 (3) The results of a preliminary chemical breath analysis
24 shall be admissible in a criminal prosecution for a crime
25 enumerated in section 81136(1) or in an administrative hearing held
26 under section 81140, solely to assist the court or hearing officer
27 in determining a challenge to the validity of an arrest. This

1 subsection does not limit the introduction of other competent
2 evidence offered to establish the validity of an arrest.

3 (4) A person who submits to a preliminary chemical breath
4 analysis shall remain subject to the requirements of sections
5 81136, 81137, 81138, 81139, and 81140 for the purposes of chemical
6 tests described in those sections.

7 (5) A person who refuses to submit to a preliminary chemical
8 breath analysis upon a lawful request by a peace officer is
9 responsible for a state civil infraction and may be ordered to pay
10 a civil fine of not more than \$100.00.

11 Sec. 81142. A person whose right to operate an ~~ORV~~-OHV has
12 been suspended pursuant to this part and who operates an ~~ORV~~-OHV is
13 guilty of a misdemeanor, punishable by imprisonment for not more
14 than 90 days, or a fine of not more than \$1,000.00, or both.

15 Sec. 81143. (1) The operator of a vehicle involved in an
16 accident resulting in injuries to, or the death of, a person, or
17 resulting in property damage in an estimated amount of \$100.00 or
18 more, shall immediately, by the quickest available means of
19 communication, notify a state police officer, or the sheriff's
20 office of the county in which the accident occurred. The police
21 agency receiving the notice shall complete a report of the accident
22 on forms prescribed by the director of the department of state
23 police and forward the report to the department of state police and
24 the department.

25 (2) A medical facility to which a person injured in an
26 accident involving an ~~ORV~~-OHV is transported shall report the
27 accident to the department of state police.

1 (3) The department of state police, in cooperation with the
2 department, shall collect and evaluate information concerning
3 accidents involving ~~ORVs~~**OHVS**.

4 (4) The operator of a vehicle involved in an accident upon
5 public or private property resulting in injury to or the death of a
6 person shall immediately stop at the scene of an accident and shall
7 render to any person injured in the accident reasonable assistance
8 in securing medical aid or transportation.

9 Sec. 81144. If a peace officer has reasonable cause to believe
10 that a person was, at the time of an accident, the operator of an
11 ~~ORV~~**OHV** involved in the accident and was operating the ~~ORV~~**OHV**
12 while under the influence of an intoxicating liquor, a controlled
13 substance as defined in section 7104 of the public health code, ~~Act~~
14 ~~No. 368 of the Public Acts of 1978, being section 333.7104 of the~~
15 ~~Michigan Compiled Laws 1978 PA 368, MCL 333.7104,~~ or a combination
16 of intoxicating liquor and a controlled substance, or was operating
17 the ~~ORV~~**OHV** while his or her ability to operate an ~~ORV~~**OHV** was
18 impaired due to the consumption of intoxicating liquor, a
19 controlled substance, or a combination of intoxicating liquor and a
20 controlled substance, the peace officer may arrest the alleged
21 operator of the ~~ORV~~**OHV** without a warrant.

22 Sec. 81145. (1) Law enforcement officers may issue appearance
23 tickets for violations of this part, pursuant to sections 9a to 9g
24 of chapter 4 of ~~Act No. 175 of the Public Acts of 1927, being~~
25 ~~sections 764.9a to 764.9g of the Michigan Compiled Laws 1927 PA~~
26 **175, MCL 764.9A TO 764.9G.**

27 (2) In a proceeding for a violation of this part involving

1 prohibited operation or conduct, the registration number or
2 numbered decal or vehicle identification number displayed on an ~~ORV~~
3 **OHV** shall constitute prima facie evidence that the owner of the
4 vehicle was the person operating the vehicle at the time of the
5 offense; unless the owner identifies the operator to law
6 enforcement officials, the vehicle was reported as stolen at the
7 time of the violation, or that the vehicle was stolen or not in use
8 at the time of the violation.

9 Sec. 81146. (1) An operator of an ~~ORV~~**OHV**, who is given by
10 hand, voice, emergency light, or siren a visual or audible signal
11 by a law enforcement officer acting in the lawful performance of
12 his or her duty, directing the operator to bring the vehicle to a
13 stop, and who willfully fails to obey the signal by increasing
14 speed, extinguishing lights, or otherwise attempting to flee or
15 elude the officer, is guilty of a misdemeanor. The officer giving
16 the signal shall be in uniform, and the officer's vehicle shall be
17 easily identifiable as an official law enforcement vehicle.

18 (2) The operator of a vehicle on the private premises of
19 another, when visibly hailed by the owner or the owner's authorized
20 agent, shall bring the vehicle to an immediate stop and provide
21 personal identification. Refusal to obey such a request to stop or
22 subsequent escape or attempt to escape is a misdemeanor.

23 Sec. 81147. (1) Except as otherwise provided in this part, a
24 person who violates this part is guilty of a misdemeanor punishable
25 by imprisonment for not more than 90 days or a fine of not less
26 than \$50.00 or more than \$1,000.00, or both, for each violation.

27 **(2) A PERSON WHO OPERATES AN OHV WITHOUT WEARING ON HIS OR HER**

1 HEAD A CRASH HELMET IN VIOLATION OF SECTION 81133(1)(B) IS
2 RESPONSIBLE FOR A STATE CIVIL INFRACTION AND SHALL BE FINED NOT
3 LESS THAN \$250.00 OR MORE THAN \$1,000.00, OR BOTH, FOR EACH
4 VIOLATION.

5 (3) A LEGAL GUARDIAN OR PARENT OR AN OWNER OR PERSON IN CHARGE
6 OF AN OHV WHO FAILS TO PROPERLY SUPERVISE THE USE OF AN OHV BY A
7 CHILD IN VIOLATION OF SECTION 81129 IS GUILTY OF A MISDEMEANOR
8 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR A FINE OF
9 NOT LESS THAN \$250.00 OR MORE THAN \$1,000.00, OR BOTH, FOR EACH
10 VIOLATION.

11 (4) A PERSON WHO OPERATES AN OHV IN VIOLATION OF SECTION
12 81133(1)(E), (I), (L), (M), OR (N) IS RESPONSIBLE FOR A STATE CIVIL
13 INFRACTION AND SHALL BE FINED NOT LESS THAN \$250.00 OR MORE THAN
14 \$1,000.00, OR BOTH, FOR EACH VIOLATION.

15 (5) ~~(2)~~—A person who violates section 81133(e) by operating an
16 ~~ORV~~—OHV in such a manner as to create an erosive condition or who
17 violates section 81133(i) or (o) is guilty of a misdemeanor
18 punishable by imprisonment for not more than 90 days or a fine of
19 not less than \$250.00 or more than \$1,000.00, or both, for each
20 violation.

21 (6) ~~(3)~~—A person who violates section 81105, 81107, 81115,
22 81116, 81121, 81130, or 81133(b), (c), (d), (f), (g), (h), (j), (l),
23 or (m) is responsible for a state civil infraction and may be
24 ordered to pay a civil fine of not more than \$500.00.

25 (7) ~~(4)~~—A person shall not remove, deface, or destroy a sign
26 or marker placed by the department indicating the boundaries of an
27 ~~ORV~~—OHV trail or area or that marks a route.

1 (8) ~~(5)~~—In addition to the penalties otherwise provided under
2 this part, a court of competent jurisdiction may order a person to
3 restore, as nearly as possible, any land, water, stream bank,
4 streambed, or other natural or geographic formation damaged by the
5 violation of this part to the condition it was in before the
6 violation occurred.

7 (9) ~~(6)~~—The department or any other peace officer may impound
8 the ~~ORV-OHV~~ of a person who commits a violation of this part that
9 is punishable as a misdemeanor or who causes damage to the
10 particular area in which the ~~ORV-OHV~~ was used in the commission of
11 the violation.

12 (10) ~~(7)~~—Upon conviction of a person for **A** violation described
13 in subsection ~~(5)~~—(8), a court of competent jurisdiction may order
14 the ~~ORV-OHV~~ and any personal property on the ~~ORV-OHV~~ seized as a
15 result of the violation returned to the owner or, upon
16 recommendation of the local prosecuting attorney, turned over to
17 the department. An ~~ORV-OHV~~ or any other property turned over to the
18 department under this subsection shall be disposed of in the manner
19 provided for condemnation of property in part 16. The proceeds
20 realized by the department under this subsection shall first be
21 used to restore areas damaged by ~~ORV-OHV~~ use, with the balance to
22 be deposited in the ~~off-road~~ **OFF-HIGHWAY** vehicle account.

23 Sec. 81148. A person shall not have an ~~ORV-OHV~~ condemned
24 pursuant to section 81147 if the trespass is the result of an
25 emergency situation.

26 Sec. 81149. The department shall conduct a survey to determine
27 the total unrefunded gasoline sales tax money it estimates to have

1 been collected from the sale of gasoline relating to the nonhighway
2 use of ~~ORVs~~**OHVs**, and shall submit a report to the legislature
3 along with a recommendation as to the method by which the
4 unrefunded gasoline sales tax money estimated to have been
5 collected shall be appropriated to benefit ~~ORV~~**OHV** users. The first
6 survey shall be submitted to the legislature prior to January 31,
7 1977 and every third year thereafter. The department shall include
8 in its budget requests information detailing survey programs.

9 Sec. 82156a. (1) Except as provided in this section and in
10 section 82156c, personal information in a record maintained under
11 this part shall not be disclosed, unless the person requesting the
12 information furnishes proof of identity ~~deemed~~**CONSIDERED**
13 satisfactory to the secretary of state and certifies that the
14 personal information requested will be used for a permissible
15 purpose identified in this section or in section 82156c.
16 Notwithstanding this section, highly restricted personal
17 information shall be used and disclosed only as expressly permitted
18 by law.

19 (2) Personal information in a record maintained under this act
20 shall be disclosed by the secretary of state if required to carry
21 out the purposes of a specified federal law. As used in this
22 section, "specified federal law" means the automobile information
23 disclosure act, Public Law 85-506, 15 ~~U.S.C.~~**USC** 1231 to 1232 and
24 1233, the former motor vehicle information and cost savings act,
25 Public Law 92-513, the former national traffic and motor vehicle
26 safety act of 1966, Public Law 89-563, the anti-car theft act of
27 1992, Public Law 102-519, 106 Stat. 3384, the clean air act,

1 ~~chapter 360, 69 Stat. 322, 42 U.S.C. USC 7401 to 7431, 7470 to~~
2 ~~7479, 7491 to 7492, 7501 to 7509a, 7511 to 7515, 7521 to 7525, 7541~~
3 ~~to 7545, 7547 to 7550, 7552 to 7554, 7571 to 7574, 7581 to 7590,~~
4 ~~7601 to 7612, 7614 to 7617, 7619 to 7622, 7624 to 7627, 7641 to~~
5 ~~7642, 7651 to 7651e, 7661 to 7661f, and 7671 to 7671q, and all~~
6 federal regulations promulgated to implement these federal laws.

7 (3) Personal information in a record maintained under this
8 part may be disclosed as follows:

9 (a) For use by any government agency, including any court or
10 law enforcement agency, in carrying out its functions, or any
11 private person or entity acting on behalf of a government agency in
12 carrying out its functions.

13 (b) For use in connection with matters of snowmobile and
14 operator safety or ~~ORV~~-OHV theft; snowmobile emissions; snowmobile
15 product alterations, recalls, or advisories; performance monitoring
16 of snowmobiles; snowmobiles research activities, including survey
17 research; and the removal of nonowner records from the original
18 records of snowmobile manufacturers.

19 (c) For use in the normal course of business by a business or
20 its agents, employees, or contractors to verify the accuracy of
21 personal information submitted by an individual to the business or
22 its agents, employees, or contractors, and if the information as
23 submitted is not correct or is no longer correct, to obtain the
24 correct information, but only for the purposes of preventing fraud,
25 by pursuing legal remedies against, or recovering on a debt or
26 security interest against, the individual.

27 (d) For use in connection with any civil, criminal,

1 administrative, or arbitral proceeding in any court or government
2 agency or before any self-regulatory body, including the service of
3 process, investigation in anticipation of litigation, and the
4 execution or enforcement of judgments and orders, or pursuant to an
5 order of any court.

6 (e) For use in legitimate research activities and in preparing
7 statistical reports for commercial, scholarly, or academic purposes
8 by a bona fide research organization, so long as the personal
9 information is not published, redisclosed, or used to contact
10 individuals.

11 (f) For use by any insurer, self-insurer, or insurance support
12 organization, or its agents, employees, or contractors, in
13 connection with claims investigation activities, antifraud
14 activities, rating, or underwriting.

15 (g) For use in providing notice to the owner of an abandoned,
16 towed, or impounded snowmobile.

17 (h) For use by any licensed private security guard agency or
18 alarm system contractor licensed under the private security guard
19 act of 1968, 1968 PA 330, MCL 338.1051 to 338.1085, or a private
20 detective or private investigator licensed under the private
21 detective license act of 1965, 1965 PA 285, MCL 338.821 to 338.851,
22 for any purpose permitted under this section.

23 (i) For use by an ~~ORV~~-OHV rental business or its employees,
24 agents, contractors, or service firms for the purpose of making
25 rental decisions.

26 (j) For use by a news medium in the preparation and
27 dissemination of a report related in part or in whole to the

1 operation of a motor vehicle or public safety. ~~"News"~~ **AS USED IN**
2 **THIS SUBDIVISION, "NEWS** medium" includes a newspaper, a magazine or
3 periodical published at regular intervals, a news service, a
4 broadcast network, a television station, a radio station, a
5 cablecaster, or an entity employed by any of the foregoing.

6 (k) For any use by an individual requesting information
7 pertaining to himself or herself or requesting in writing that the
8 secretary of state provide information pertaining to himself or
9 herself to the individual's designee. A request for disclosure to a
10 designee, however, may be submitted only by the individual.

11 Enacting section 1. This amendatory act does not take effect
12 unless all of the following bills of the 95th Legislature are
13 enacted into law:

14 (a) Senate Bill No. ____ or House Bill No. 6159 (request no.
15 04595'09).

16 (b) Senate Bill No. ____ or House Bill No. 6160 (request no.
17 06837'10).

18 (c) Senate Bill No. ____ or House Bill No. 6161 (request no.
19 06838'10).