

SENATE BILL No. 627

June 9, 2009, Introduced by Senator JELINEK and referred to the Committee on Natural Resources and Environmental Affairs.

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. 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~~ **EITHER OF THE FOLLOWING**
9 **CONDITIONS IS SATISFIED:**

1 (i) THE vehicle is equipped with a roof that meets or exceeds
2 standards for a crash helmet and the operator and each passenger is
3 wearing a properly adjusted and fastened safety belt.

4 (ii) THE OPERATOR IS OPERATING THE ORV ON AGRICULTURAL PROPERTY
5 OWNED OR LEASED BY THE OPERATOR OR THE PARENT OR LEGAL GUARDIAN OF
6 THE OPERATOR. AS USED IN THIS SUBPARAGRAPH, "AGRICULTURAL PROPERTY"
7 MEANS REAL PROPERTY USED FOR FARMING IN ANY OF ITS BRANCHES,
8 INCLUDING CULTIVATING SOIL; GROWING AND HARVESTING ANY
9 AGRICULTURAL, HORTICULTURAL, OR FLORICULTURAL COMMODITY; DAIRYING;
10 RAISING LIVESTOCK, BEES, FISH, FUR-BEARING ANIMALS, OR POULTRY;
11 TURF AND TREE FARMING; AND PERFORMING ANY PRACTICES ON A FARM AS AN
12 INCIDENT TO, OR IN CONJUNCTION WITH, THESE FARMING OPERATIONS.
13 AGRICULTURAL PROPERTY DOES NOT INCLUDE PROPERTY USED FOR COMMERCIAL
14 STORAGE, PROCESSING, DISTRIBUTION, MARKETING, OR SHIPPING
15 OPERATIONS.

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

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

1 and automatically return to idle.

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

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

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

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

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

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

1 not less than the amount of damage or injury. Failure to post
2 private property or fence or otherwise enclose in a manner to
3 exclude intruders or of the private property owner or other
4 authorized person to personally communicate against trespass does
5 not imply consent to ORV use.

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

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

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

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

12 (m) Within 100 feet of a slide, ski, or skating area, unless
13 the vehicle is being used for the purpose of servicing the area or
14 ~~is being operated pursuant to~~ **ITS OPERATION IS AUTHORIZED UNDER**
15 section 81131(2), (3), or (5).

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

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

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

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

2 (r) In a manner contrary to operating regulations on public
3 lands.

4 (s) While transporting or possessing, in or on the vehicle,
5 alcoholic liquor in a container that is open or uncapped or upon
6 which the seal is broken, except under either of the following
7 circumstances:

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

10 (ii) If the vehicle does not have a trunk or compartment
11 separate from the passenger compartment, the container is encased
12 or enclosed.

13 (t) While transporting any passenger in or upon an ORV unless
14 the manufacturing standards for the vehicle make provisions for
15 transporting passengers.

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