

SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 5322

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 40111 and 81133 (MCL 324.40111 and 324.81133),  
as amended by 2012 PA 246.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 40111. (1) Except as otherwise provided in subsection (3)  
2 **OR (4)**, this part, or in a department order authorized under  
3 section 40107, an individual shall not take an animal from in or  
4 upon a vehicle.

5           (2) Except as otherwise provided in subsection (3) **OR (4)**,  
6 this part, or in a department order authorized under section 40107,  
7 an individual shall not transport or possess a firearm in or upon a  
8 vehicle, unless the firearm is unloaded in both barrel and magazine  
9 and enclosed in a case, carried in the trunk of a vehicle, or  
10 unloaded in a motorized boat.

1           (3) A person with a disability may transport or possess a  
2 firearm in or upon a vehicle, except for a car or truck, on a state  
3 licensed game bird hunting preserve if the firearm is unloaded and  
4 the vehicle is operated at a speed of not greater than 10 miles per  
5 hour. A person with a disability may possess a loaded firearm and  
6 may discharge that firearm to take an animal from in or upon a  
7 vehicle, except for a car or truck, on a state licensed game bird  
8 hunting preserve if the vehicle is not moving. The department may  
9 demand proof of eligibility under this subsection. An individual  
10 shall possess proof of his or her eligibility under this subsection  
11 and furnish the proof upon the request of a peace officer.

12           **(4) AN INDIVIDUAL MAY TRANSPORT OR POSSESS AN UNLOADED FIREARM**  
13 **IN OR UPON A VEHICLE ON A SPORTING CLAYS RANGE.**

14           (5) ~~(4)~~—Except as otherwise provided in this part, an  
15 individual shall not transport or possess a bow in or upon a  
16 vehicle, unless the bow is unstrung, enclosed in a case, or carried  
17 in the trunk of a vehicle.

18           (6) ~~(5)~~—An individual shall not hunt or discharge a firearm  
19 within 150 yards of an occupied building, dwelling, house,  
20 residence, or cabin, or any barn or other building used in  
21 connection with a farm operation, without obtaining the written  
22 permission of the owner, renter, or occupant of the property.

23           (7) ~~(6)~~—As used in this section:

24           (a) "Person with a disability" means a disabled person as that  
25 term is defined in section 19a of the Michigan vehicle code, 1949  
26 PA 300, MCL 257.19a, and who is in possession of 1 of the  
27 following:

1           (i) A certificate of identification or windshield placard  
2 issued to a disabled person under section 675 of the Michigan  
3 vehicle code, 1949 PA 300, MCL 257.675.

4           (ii) A special registration plate issued to a disabled person  
5 under section 803d of the Michigan vehicle code, 1949 PA 300, MCL  
6 257.803d.

7           (b) "Unloaded" means, for a break-action firearm, that the  
8 action is open with the breech exposed, whether or not the breech  
9 contains a shell. Unloaded means, for a non-break-action firearm,  
10 that the barrel of the firearm does not contain a shell.

11           Sec. 81133. An individual shall not operate an ORV:

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

15           (b) Unless the individual and any passenger in or on the  
16 vehicle is wearing on his or her head a crash helmet and protective  
17 eyewear approved by the United States department of transportation.  
18 This subdivision does not apply to either of the following:

19           (i) The operator of or a passenger in a vehicle that is  
20 equipped with a roof that meets or exceeds standards for a crash  
21 helmet if the operator and each passenger is wearing a properly  
22 adjusted and fastened safety belt.

23           (ii) The operator of or a passenger in an ORV that is operated  
24 on a state licensed game bird hunting preserve at a speed of not  
25 greater than 10 miles per hour.

26           (c) During the hours of 1/2 hour after sunset to 1/2 hour  
27 before sunrise without displaying a lighted headlight and lighted

1 taillight. The requirements of this subdivision are in addition to  
2 any applicable requirements of section 81131(8).

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

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

25 (f) On the frozen surface of public waters within 100 feet of  
26 an individual not in or upon a vehicle, or within 100 feet of a  
27 fishing shanty or shelter or an area that is cleared of snow for

1 skating purposes, except at the minimum speed required to maintain  
2 controlled forward movement of the vehicle, or as may be authorized  
3 by permit in special events.

4 (g) Unless the vehicle is equipped with a spark arrester type  
5 United States forest service approved muffler, in good working  
6 order and in constant operation. Exhaust noise emission shall not  
7 exceed 86 Db(A) or 82 Db(A) on a vehicle manufactured after January  
8 1, 1986, when the vehicle is under full throttle, traveling in  
9 second gear, and measured 50 feet at right angles from the vehicle  
10 path with a sound level meter that meets the requirement of ANSI  
11 S1.4 1983, using procedure and ancillary equipment therein  
12 described; or 99 Db(A) or 94 Db(A) on a vehicle manufactured after  
13 January 1, 1986, or that level comparable to the current sound  
14 level as provided for by the United States environmental protection  
15 agency when tested according to the provisions of the current SAE  
16 J1287, June 86 test procedure for exhaust levels of stationary  
17 motorcycles, using sound level meters and ancillary equipment  
18 therein described. A vehicle subject to this part, manufactured or  
19 assembled after December 31, 1972 and used, sold, or offered for  
20 sale in this state, shall conform to the noise emission levels  
21 established by the United States environmental protection agency  
22 under the noise control act of 1972, 42 USC 4901 to 4918.

23 (h) Within 100 feet of a dwelling at a speed greater than the  
24 minimum required to maintain controlled forward movement of the  
25 vehicle, except on property owned or under the operator's control  
26 or on which the operator is an invited guest, or on a roadway,  
27 forest road, or forest trail maintained by or under the

1 jurisdiction of the department, or on a road or street on which ORV  
2 use is authorized under section 81131(2), (3), or (5).

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

16 (j) In an area on which public hunting is permitted during the  
17 regular November firearm deer season from 7 a.m. to 11 a.m. and  
18 from 2 p.m. to 5 p.m., except during an emergency or for law  
19 enforcement purposes, to go to and from a permanent residence or a  
20 hunting camp otherwise inaccessible by a conventional wheeled  
21 vehicle, to remove from public land a deer, elk, or bear that has  
22 been taken under a valid license; except for the conduct of  
23 necessary work functions involving land and timber survey,  
24 communication and transmission line patrol, and timber harvest  
25 operations; or except on property owned or under control of the  
26 operator or on which the operator is an invited guest. A hunter  
27 removing game under this subdivision may leave the designated trail

1 or forest road only to retrieve the game and shall not exceed 5  
2 miles per hour. A vehicle registered under the code is exempt from  
3 this subdivision while operating on a public highway or public or  
4 private road capable of sustaining automobile traffic. A person  
5 holding a valid permit to hunt from a standing vehicle issued under  
6 part 401, or a person with a disability using an ORV to access  
7 public lands for purposes of hunting or fishing through use of a  
8 designated trail or forest road, is exempt from this subdivision.  
9 An individual holding a valid permit to hunt from a standing  
10 vehicle issued under part 401, or a person with a disability using  
11 an ORV to access public lands for purposes of hunting or fishing,  
12 may display a flag, the color of which the department shall  
13 determine, to identify himself or herself as a person with a  
14 disability or an individual holding a permit to hunt from a  
15 standing vehicle under part 401.

16 (k) Except as otherwise provided in section ~~40111~~**40111(3) OR**  
17 **(4)**, while transporting on the vehicle a bow unless unstrung or  
18 encased, or a firearm unless unloaded and securely encased, or  
19 equipped with and made inoperative by a manufactured keylocked  
20 trigger housing mechanism.

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

23 (m) Within 100 feet of a slide, ski, or skating area, unless  
24 the vehicle is being used for the purpose of servicing the area or  
25 is being operated pursuant to section 81131(2), (3), or (5).

26 (n) On an operating or nonabandoned railroad or railroad  
27 right-of-way, or public utility right-of-way, other than for the

1 purpose of crossing at a clearly established site intended for  
2 vehicular traffic, except railroad, public utility, or law  
3 enforcement personnel while in performance of their duties, and  
4 except if the right-of-way is designated as provided for in section  
5 81127.

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

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

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

12 (r) In a manner contrary to operating regulations on public  
13 lands.

14 (s) While transporting or possessing, in or on the vehicle,  
15 alcoholic liquor in a container that is open or uncapped or upon  
16 which the seal is broken, except under either of the following  
17 circumstances:

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

20 (ii) If the vehicle does not have a trunk or compartment  
21 separate from the passenger compartment, the container is encased  
22 or enclosed.

23 (t) While transporting any passenger in or upon an ORV unless  
24 the manufacturing standards for the vehicle make provisions for  
25 transporting passengers.

26 (u) On adjacent private land, in an area zoned residential,  
27 within 300 feet of a dwelling at a speed greater than the minimum



1 required to maintain controlled forward movement of the vehicle  
2 except on a roadway, forest road, or forest trail maintained by or  
3 under the jurisdiction of the department, or on a road or street on  
4 which ORV use is authorized under section 81131(2), (3), or (5).