

HOUSE BILL NO. 4021

January 18, 2023, Introduced by Rep. VanderWall and referred to the Committee on Judiciary.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 81101, 81132, 81145, 81146, and 81150 (MCL 324.81101, 324.81132, 324.81145, 324.81146, and 324.81150), section 81101 as amended by 2020 PA 385 and sections 81132, 81145, 81146, and 81150 as added by 1995 PA 58.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1** Sec. 81101. As used in this part:
- 2** (a) "Alcoholic liquor" means that term as defined in section

1 1d of the Michigan vehicle code, 1949 PA 300, MCL 257.1d.

2 (b) "ATV" means a vehicle with 3 or more wheels that is
3 designed for off-road use, has low-pressure tires, has a seat
4 designed to be straddled by the rider, and is powered by a 50cc to
5 1,000cc gasoline engine or an engine of comparable size using other
6 fuels.

7 (c) "Code" means the Michigan vehicle code, 1949 PA 300, MCL
8 257.1 to 257.923.

9 (d) "County road" means a county primary road or county local
10 road as described in section 5 of 1951 PA 51, MCL 247.655, or a
11 segment thereof.

12 (e) "Dealer" means a person engaged in the sale, lease, or
13 rental of an ORV as a regular business or, for purposes of selling
14 licenses under section 81116, any other person authorized by the
15 department to sell licenses or permits, or both, under this act.

16 (f) "Designated", unless the context implies otherwise, means
17 posted by the department, with appropriate signs, as open for ORV
18 use.

19 (g) "Farm vehicle" means either of the following:

20 (i) An implement of husbandry as defined in section 21 of the
21 Michigan vehicle code, 1949 PA 300, MCL 257.21.

22 (ii) A vehicle used in connection with a farm operation as
23 defined in section 2 of the Michigan right to farm act, 1981 PA 93,
24 MCL 286.472.

25 (h) "Forest road" means a hard surfaced road, gravel or dirt
26 road, or other route capable of travel by a 2-wheel drive, 4-wheel
27 conventional vehicle designed for road use. Forest road does not
28 include a street, county road, or highway.

29 (i) "Forest trail" means a designated path or way that is not

1 a route.

2 (j) "Highway" means a state trunk line highway or a segment of
3 a state trunk line highway.

4 (k) "Highly restricted personal information" means an
5 individual's photograph or image, Social Security number, digitized
6 signature, and medical and disability information.

7 (l) "Late model ORV" means an ORV manufactured in the current
8 model year or the 5 model years immediately preceding the current
9 model year.

10 (m) "Law of another state" means a law or ordinance enacted by
11 any of the following:

12 (i) Another state.

13 (ii) A local unit of government in another state.

14 (iii) Canada or a province or territory of Canada.

15 (iv) A local unit of government in a province or territory of
16 Canada.

17 (n) "Local unit of government" means a county, township, or
18 municipality.

19 (o) "Maintained portion" means the roadway and any shoulder of
20 a street, county road, or highway.

21 (p) "Manufacturer" means a person, partnership, corporation,
22 or association engaged in the production and manufacture of ORVs as
23 a regular business.

24 (q) "Municipality" means a city or village.

25 (r) "Off-road vehicle account" means the off-road vehicle
26 account of the Michigan conservation and recreation legacy fund
27 established in section 2015.

28 (s) "Operate" means to ride in or on, and be in actual
29 physical control of, the operation of an ORV.

1 (t) "Operator" means an individual who operates or is in
2 actual physical control of the operation of an ORV.

3 (u) "ORV" or, unless the context implies a different meaning,
4 "vehicle" means a motor-driven off-road recreation vehicle capable
5 of cross-country travel without benefit of a road or trail, on or
6 immediately over land, snow, ice, marsh, swampland, or other
7 natural terrain. A multitrack or multiwheel drive vehicle, a
8 motorcycle or related 2-wheel vehicle, a vehicle with 3 or more
9 wheels, an amphibious machine, a ground effect air cushion vehicle,
10 or other means of transportation may be an ORV. An ATV is an ORV.
11 ORV or vehicle does not include a registered snowmobile, a farm
12 vehicle being used for farming, a vehicle used for military, fire,
13 emergency, or law enforcement purposes, a vehicle owned and
14 operated by a utility company or an oil or gas company when
15 performing maintenance on its facilities or on property over which
16 it has an easement, a construction or logging vehicle used in
17 performance of its common function, or a registered aircraft.

18 (v) "ORV safety certificate" means an ORV safety certificate
19 issued under section 81130 or, except as used in section 81130, a
20 comparable safety certificate issued under the authority of another
21 state or province of Canada.

22 (w) "Owner" means any of the following:

23 (i) A vendee or lessee of an ORV that is the subject of an
24 agreement for the conditional sale or lease of the ORV, with the
25 right of purchase upon performance of the conditions stated in the
26 agreement, and with an immediate right of possession vested in the
27 conditional vendee or lessee.

28 (ii) A person renting an ORV, or having the exclusive use of an
29 ORV, for more than 30 days.

1 (iii) A person who holds legal ownership of an ORV.

2 (x) "Peace officer" means any of the following:

3 (i) A sheriff.

4 (ii) A sheriff's deputy.

5 (iii) A deputy who is authorized by a sheriff to enforce this
6 part and who has satisfactorily completed at least 40 hours of law
7 enforcement training, including training specific to this part.

8 (iv) A village or township marshal.

9 (v) An officer of the police department of a municipality.

10 (vi) An officer of the department of state police.

11 (vii) The director and conservation officers employed by the
12 department.

13 (y) ~~(x)~~—"Person with a disability" means an individual who has
14 1 or more of the following physical characteristics:

15 (i) Blindness.

16 (ii) Inability, during some time of the year, to ambulate more
17 than 200 feet without having to stop and rest.

18 (iii) Loss of use of 1 or both legs or feet.

19 (iv) Inability to ambulate without the prolonged use of a
20 wheelchair, walker, crutches, braces, or other device required to
21 aid mobility.

22 (v) A lung disease from which the individual's expiratory
23 volume for 1 second, measured by spirometry, is less than 1 liter,
24 or from which the individual's arterial oxygen tension is less than
25 60 mm/hg of room air at rest.

26 (vi) A cardiovascular disease that causes the individual to
27 measure between 3 and 4 on the New York heart classification scale,
28 or that results in a marked limitation of physical activity by

1 causing fatigue, palpitation, dyspnea, or anginal pain.

2 (vii) Other diagnosed disease or disorder including, but not
3 limited to, severe arthritis or a neurological or orthopedic
4 impairment that creates a severe mobility limitation.

5 (z) ~~(y)~~ "Personal information" means information that
6 identifies an individual, including an individual's driver
7 identification number, name, address not including zip code, and
8 telephone number, but does not include information on ORV operation
9 or equipment-related violations or civil infractions, operator or
10 vehicle registration status, accidents, or other behaviorally
11 related information.

12 (aa) ~~(z)~~ "Prior conviction" means a conviction for any of the
13 following, whether under a law of this state, a local ordinance
14 substantially corresponding to a law of this state, a law of the
15 United States substantially corresponding to a law of this state,
16 or a law of another state substantially corresponding to a law of
17 this state:

18 (i) A violation or an attempted violation of section 81134(1),
19 (3), (4), (5), (6), or (7), except that only 1 violation or
20 attempted violation of section 81134(6), a local ordinance
21 substantially corresponding to section 81134(6), a law of another
22 state substantially corresponding to section 81134(6), or a law of
23 the United States substantially corresponding to section 81134(6)
24 may be used as a prior conviction other than for enhancement
25 purposes as provided in section 81134(11)(b).

26 (ii) Negligent homicide, manslaughter, or murder resulting from
27 the operation of an ORV, or an attempt to commit any of those
28 crimes.

29 (iii) Former section 81135.

1 **(bb)** ~~(aa)~~—"Public agency" means the department or a local or
2 federal unit of government.

3 **(cc)** ~~(bb)~~—"Roadway" means the portion of a street, county
4 road, or highway improved, designed, or ordinarily used for travel
5 by vehicles registered under the code. Roadway does not include the
6 shoulder.

7 **(dd)** ~~(ee)~~—"Route" means a forest road or other road that is
8 designated for purposes of this part by the department.

9 **(ee)** ~~(dd)~~—"Safety chief instructor" means an individual who
10 has been certified by a nationally recognized ORV organization to
11 certify instructors and to do on-sight evaluations of instructors.

12 **(ff)** ~~(ee)~~—"Shoulder" means that portion of a street, county
13 road, or highway contiguous to the roadway and generally extending
14 the contour of the roadway, not designed for vehicular travel but
15 maintained for the temporary accommodation of disabled or stopped
16 motor vehicles otherwise permitted on the roadway.

17 **(gg)** ~~(ff)~~—"Southern county" means Muskegon, Kent, Ionia,
18 Clinton, Shiawassee, Genesee, Lapeer, or Macomb County, or a county
19 lying south of the territory constituted by these counties.

20 **(hh)** ~~(gg)~~—"Specialty court program" means a program under any
21 of the following:

22 (i) A drug treatment court, as defined in section 1060 of the
23 revised judicature act of 1961, 1961 PA 236, MCL 600.1060, in which
24 the participant is an adult.

25 (ii) A DWI/sobriety court, as defined in section 1084 of the
26 revised judicature act of 1961, 1961 PA 236, MCL 600.1084.

27 (iii) A hybrid of the programs under subparagraphs (i) and (ii).

28 (iv) A mental health court as defined in section 1090 of the
29 revised judicature act of 1961, 1961 PA 236, MCL 600.1090.

1 (v) A veterans treatment court, as defined in section 1200 of
2 the revised judicature act of 1961, 1961 PA 236, MCL 600.1200.

3 (ii) ~~(hh)~~ "Street" means a city or village major street or
4 city or village local street as described in section 9 of 1951 PA
5 51, MCL 247.659, or a segment thereof.

6 (jj) ~~(ii)~~ "Traffic lane" means a clearly marked lane on a
7 roadway.

8 (kk) ~~(jj)~~ "Unmaintained portion" means the portion of a
9 street, county road, or highway that is not the maintained portion.

10 (ll) ~~(kk)~~ "Visual supervision" means the direct observation of
11 the operator with the unaided or normally corrected eye by an
12 observer who is able to come to the immediate aid of the operator.

13 Sec. 81132. (1) The department may promulgate rules governing
14 the operation and conduct of ORVs, vehicle speed limits, use of
15 vehicles by day and hour, and the establishment and designation of
16 areas within which vehicles may be used in a manner compatible
17 with, and that will best protect, the public safety and general
18 welfare on the frozen surface of public waters, and that will
19 preserve the submerged marshlands adjacent to the borders of the
20 Great Lakes, ~~lake~~ **Lake** St. Clair, and the navigable inland waters
21 of the state.

22 (2) The department, on its own initiative or ~~upon~~ **on** receipt
23 of a certified resolution of the governing body of a local unit of
24 government may initiate investigations into the need for special
25 rules governing the operation of vehicles on the frozen surface of
26 public waters and the submerged marshlands adjacent to the borders
27 of the Great Lakes, ~~lake~~ **Lake** St. Clair, and the navigable inland
28 waters of the state. If controls for that activity are considered
29 necessary, or when the amendment or rescission of an existing rule

1 is required, a rule ~~shall~~**must** be prepared. Notice of a public
2 hearing ~~shall~~**must** be made not less than 10 days prior to the
3 hearing, in a newspaper of general circulation in the area within
4 which the rules are to be imposed, amended, or rescinded.

5 (3) The proposed rule ~~shall~~**must** then be submitted to the
6 governing body of the political subdivision in which the affected
7 frozen waters or marshes lie. Within 30 calendar days, the
8 governing body shall inform the department that it approves or
9 disapproves of the proposed rule. If the governing body disapproves
10 the proposed rule, further action ~~shall~~**must** not be taken. If the
11 governing body approves the proposed rule, a local ordinance may be
12 enacted which ~~shall~~**must** be identical to the rule, and which
13 ordinance ~~shall~~**must** not be effective until the rule is in effect
14 in accordance with law. The department shall then promulgate the
15 rule.

16 (4) When an ordinance is enacted under the authority of a
17 rule, and that rule is subsequently suspended by the legislature,
18 or amended or rescinded by the department, the ordinance ~~shall~~**must**
19 also be suspended, amended, or repealed.

20 (5) A local ~~law enforcement~~**peace** officer may enforce an
21 ordinance enacted pursuant to this section, and a state ~~law~~
22 ~~enforcement~~**peace** officer shall enforce a rule promulgated under
23 this section.

24 Sec. 81145. (1) ~~Law enforcement officers~~**A peace officer** may
25 issue ~~an appearance tickets~~**ticket** for ~~violations~~**a violation** of
26 this part, ~~pursuant to~~**under** sections 9a to 9g of ~~chapter 4 of Act~~
27 ~~No. 175 of the Public Acts of 1927, being sections 764.9a to 764.9g~~
28 ~~of the Michigan Compiled Laws.~~**the code of criminal procedure, 1927**
29 **PA 175, MCL 764.9a to 764.9g.**

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

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

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

25 Sec. 81150. The department shall disseminate information to
26 its field officers and to state and local law enforcement agencies
27 on a uniform interpretation of this part and each **peace** officer's
28 duties and responsibilities in enforcing this part.