

Act No. 196  
Public Acts of 2009  
Approved by the Governor  
December 28, 2009  
Filed with the Secretary of State  
December 28, 2009  
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**STATE OF MICHIGAN  
95TH LEGISLATURE  
REGULAR SESSION OF 2009**

Introduced by Senators Jelinek and Van Woerkom

# **ENROLLED SENATE BILL No. 934**

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending section 81101 (MCL 324.81101), as amended by 2004 PA 587.

*The People of the State of Michigan enact:*

Sec. 81101. As used in this part:

(a) "ATV" means a 3- or 4-wheeled vehicle designed for off-road use that has low-pressure tires, has a seat designed to be straddled by the rider, and is powered by a 50cc to 500cc gasoline engine or an engine of comparable size using other fuels.

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

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

(d) "Designated", unless the context implies otherwise, means posted open for ORV use with appropriate signs by the department.

(e) "Farm vehicle" means either of the following:

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

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

(f) "Forest road" means a hard surfaced road, gravel or dirt road, or other route capable of travel by a 2-wheel drive, 4-wheel conventional vehicle designed for highway use, except an interstate, state, or county highway.

(g) "Forest trail" means a designated path or way capable of travel only by a vehicle less than 50 inches in width.

(h) "Highway" means the entire width between the boundary lines of a way publicly maintained when any part of the way is open to the use of the public for purposes of vehicular travel.

(i) "Highly restricted personal information" means an individual's photograph or image, social security number, digitized signature, and medical and disability information.

(j) "Late model ORV" means an ORV manufactured in the current model year or the 5 model years immediately preceding the current model year.

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

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

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

(n) "Operator" means a person who operates or is in actual physical control of the operation of an ORV.

(o) "ORV" or "vehicle" means a motor driven off-road recreation vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. ORV or vehicle includes, but is not limited to, a multitrack or multiwheel drive vehicle, an ATV, a motorcycle or related 2-wheel, 3-wheel, or 4-wheel vehicle, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation deriving motive power from a source other than muscle or wind. ORV or vehicle does not include a registered snowmobile, a farm vehicle being used for farming, a vehicle used for military, fire, emergency, or law enforcement purposes, a vehicle owned and operated by a utility company or an oil or gas company when performing maintenance on its facilities or on property over which it has an easement, a construction or logging vehicle used in performance of its common function, or a registered aircraft.

(p) "Owner" means any of the following:

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

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

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

(q) "Person with disabilities" means a person who has 1 or more of the following physical characteristics:

(i) Blindness.

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

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

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

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

(vi) A cardiovascular disease from which the person measures between 3 and 4 on the New York heart classification scale, or from which a marked limitation of physical activity causes fatigue, palpitation, dyspnea, or anginal pain.

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

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

(s) "Public agency" means the department or a local or federal unit of government.

(t) "Roadway" means that portion of a highway improved, designated, or ordinarily used for vehicular travel. If a highway includes 2 or more separate roadways, the term roadway refers to a roadway separately, but not to all roadways collectively.

(u) "Route" means a forest road or other road that is designated for purposes of this part by the department.

(v) "Safety chief instructor" means a person who has been certified by a nationally recognized ATV and ORV organization to certify instructors and to do on-sight evaluations of instructors.

(w) "Visual supervision" means the direct observation of the operator with the unaided or normally corrected eye, where the observer is able to come to the immediate aid of the operator.

This act is ordered to take immediate effect.

*Carol Morey Viventi*

Secretary of the Senate

*Richard J. Brown*

Clerk of the House of Representatives

Approved .....

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Governor