

**STATE OF MICHIGAN
102ND LEGISLATURE
REGULAR SESSION OF 2023**

Introduced by Rep. VanderWall

ENROLLED HOUSE BILL No. 4021

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 protect the people’s right to hunt and fish; 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 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:

Sec. 81101. As used in this part:

(a) “Alcoholic liquor” means that term as defined in section 1d of the Michigan vehicle code, 1949 PA 300, MCL 257.1d.

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

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

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

(e) "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.

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

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

(i) An implement of husbandry as 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 defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

(h) "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 road use. Forest road does not include a street, county road, or highway.

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

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

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

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

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

(i) Another state.

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

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

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

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

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

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

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

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

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

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

(u) "ORV" or, unless the context implies a different meaning, "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. A multitrack or multiwheel drive vehicle, a motorcycle or related 2-wheel vehicle, a vehicle with 3 or more wheels, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation may be an ORV. An ATV is an ORV. 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.

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

(w) "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.

- (x) “Peace officer” means any of the following:
- (i) A sheriff.
 - (ii) A sheriff’s deputy.
 - (iii) A deputy who is authorized by a sheriff to enforce this part and who has satisfactorily completed at least 40 hours of law enforcement training, including training specific to this part.
 - (iv) A village or township marshal.
 - (v) An officer of the police department of a municipality.
 - (vi) An officer of the department of state police.
 - (vii) The director and conservation officers employed by the department.
- (y) “Person with a disability” means an individual who has 1 or more of the following physical characteristics:
- (i) Blindness.
 - (ii) Inability, during some time of the year, to ambulate more than 200 feet without having to stop and rest.
 - (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 individual’s expiratory volume for 1 second, measured by spirometry, is less than 1 liter, or from which the individual’s arterial oxygen tension is less than 60 mm/hg of room air at rest.
 - (vi) A cardiovascular disease that causes the individual to measure between 3 and 4 on the New York heart classification scale, or that results in a marked limitation of physical activity by causing 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.
- (z) “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.
- (aa) “Prior conviction” means a conviction for any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, a law of the United States substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:
- (i) A violation or an attempted violation of section 81134(1), (3), (4), (5), (6), or (7), except that only 1 violation or attempted violation of section 81134(6), a local ordinance substantially corresponding to section 81134(6), a law of another state substantially corresponding to section 81134(6), or a law of the United States substantially corresponding to section 81134(6) may be used as a prior conviction other than for enhancement purposes as provided in section 81134(11)(b).
 - (ii) Negligent homicide, manslaughter, or murder resulting from the operation of an ORV, or an attempt to commit any of those crimes.
 - (iii) Former section 81135.
- (bb) “Public agency” means the department or a local or federal unit of government.
- (cc) “Roadway” means the portion of a street, county road, or highway improved, designed, or ordinarily used for travel by vehicles registered under the code. Roadway does not include the shoulder.
- (dd) “Route” means a forest road or other road that is designated for purposes of this part by the department.
- (ee) “Safety chief instructor” means an individual who has been certified by a nationally recognized ORV organization to certify instructors and to do on-sight evaluations of instructors.
- (ff) “Shoulder” means that portion of a street, county road, or highway contiguous to the roadway and generally extending the contour of the roadway, not designed for vehicular travel but maintained for the temporary accommodation of disabled or stopped motor vehicles otherwise permitted on the roadway.
- (gg) “Southern county” means Muskegon, Kent, Ionia, Clinton, Shiawassee, Genesee, Lapeer, or Macomb County, or a county lying south of the territory constituted by these counties.
- (hh) “Specialty court program” means a program under any of the following:
- (i) A drug treatment court, as defined in section 1060 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1060, in which the participant is an adult.
 - (ii) A DWI/sobriety court, as defined in section 1084 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1084.

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

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

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

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

(jj) "Traffic lane" means a clearly marked lane on a roadway.

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

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

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

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

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

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

(5) A local peace officer may enforce an ordinance enacted pursuant to this section, and a state peace officer shall enforce a rule promulgated under this section.

Sec. 81145. (1) A peace officer may issue an appearance ticket for a violation of this part under sections 9a to 9g of the code of criminal procedure, 1927 PA 175, MCL 764.9a to 764.9g.

(2) In a proceeding for a violation of this part involving prohibited operation or conduct, the registration number or numbered decal or vehicle identification number displayed on an ORV constitutes prima facie evidence that the owner of the vehicle was the person operating the vehicle at the time of the offense; unless the owner identifies the operator of the vehicle to a peace officer, the vehicle was reported as stolen at the time of the violation, or that the vehicle was stolen or not in use at the time of the violation.

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

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

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



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor