

**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2003**

Introduced by Senator Leland

ENROLLED SENATE BILL No. 574

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, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 81101, 81115, 81116, 81117, 81118, 81129, and 81130 (MCL 324.81101, 324.81115, 324.81116, 324.81117, 324.81118, 324.81129, and 324.81130), section 81101 as amended by 1998 PA 86, sections 81115, 81117, 81118, 81129, and 81130 as added by 1995 PA 58, and section 81116 as amended by 1995 PA 99; and to repeal acts and parts of acts.

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) "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.

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

(g) "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.

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

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

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

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

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

(m) “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.

(n) “Owner” means any of the following:

(i) A vendee or lessee of an ORV which 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.

(o) “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.

(p) “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.

(q) “Public agency” means the department or a local or federal unit of government.

(r) “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.

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

(t) “Safety education fund” means the safety education fund created under section 81118.

(u) “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.

(v) “Trail improvement fund” means the ORV trail improvement fund created pursuant to section 81117.

(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.

Sec. 81115. (1) Except as otherwise provided by law, an ORV shall not be operated on or over land, snow, ice, marsh, swampland, or other natural terrain unless licensed by the owner with the department or a dealer as provided in this part. Except as otherwise provided in this part, a vehicle operating on a forest trail or in a designated area shall be licensed under this part.

(2) Licensure is not required for an ORV used exclusively in a safety and training program as required in section 81129.

Sec. 81116. (1) The owner of an ORV requiring licensure under this part shall file an application for a license with the department or a dealer on forms provided by the department. If an ORV is sold by a dealer, the application for a license shall be submitted to the department by the dealer in the name of the owner. The application shall be signed by the owner of the vehicle and shall be accompanied by a fee of \$16.25. A person shall not file an application for registration that contains false information. Upon receipt of the application in approved form and upon payment of the appropriate fee, the department or dealer shall issue to the applicant a license which shall be valid for the 12-month period for which it is issued. A license shall be issued for the 12-month period beginning April 1 and ending March 31 each year.

(2) Dealers may purchase from the department ORV licenses for resale to owners of vehicles requiring licensure under this part. The department shall refund to dealers the purchase price of any ORV licenses returned within 90 days after the end of the 12-month period for which they were valid. The dealer shall maintain and provide to the department records of ORV license sales on forms provided by the department. In addition to the sale of ORV licenses, a dealer engaged in the sale, lease, or rental of ORVs as a regular business may sell any other license or permit authorized by the department to be sold by other dealers under the statutes of this state.

(3) The license shall be permanently attached to the vehicle in the manner prescribed and in the location designated by the department before the vehicle may legally be operated in accordance with this part.

(4) If at the time of sale the purchaser certifies on a form provided by the department that the purchased vehicle otherwise requiring a license under this part will be used and stored outside of this state and will not be returned by the purchaser to this state for use, then a license is not required.

Sec. 81117. (1) The ORV trail improvement fund is created in the state treasury. The fund shall be administered by the department and shall be used for the signing, improvement, maintenance, and construction of ORV trails, routes, or areas; for the administration and enforcement of this part; for the leasing of land; for the acquisition of easements, permits, or other agreements for the use of land for ORV trails, routes, or areas; and for the restoration of any of the natural resources of this state on public land that are damaged due to ORV use in conjunction with the plan required by section 81123.

(2) Except as provided in section 81118, all of the revenue from each fee collected under section 81116 shall be deposited in the fund.

(3) The department may accept gifts, grants, or bequests from any public or private source or from the federal, state, or a local unit of government for the purposes of the fund.

(4) All funds allocated under this part shall be for projects that are open to the public.

(5) Any money remaining in the ORV trail improvement fund at the end of a fiscal year shall be carried over in the fund to the next and succeeding fiscal years and shall only be used for the purposes stated in this section.

Sec. 81118. (1) The safety education fund is created in the state treasury. The fund shall be administered by the department and shall be used for the purposes described in sections 81129 and 81130.

(2) One dollar of the revenue from each fee collected under section 81116 shall be deposited in the safety education fund.

(3) The department may accept gifts, grants, or bequests from any public or private source or the federal, state, or a local unit of government for the purposes of the fund.

(4) Any money remaining in the safety education fund at the end of a fiscal year shall be carried over in the fund to the next and succeeding fiscal years and shall only be used for the purposes stated in this section.

Sec. 81129. (1) Subject to subsections (2), (3), and (17), a parent or legal guardian of a child less than 16 years of age shall not permit the child to operate an ORV unless the child is under the direct visual supervision of an adult and the child has in his or her immediate possession an ORV safety certificate issued pursuant to this part or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

(2) A parent or legal guardian of a child less than 12 years of age shall not permit the child to operate a 4-wheeled ATV, unless the child is not less than 10 years of age and is on private land owned by a parent or legal guardian of the child. This subsection does not apply to the operation of an ATV used in agricultural operations.

(3) A parent or legal guardian of a child less than 16 years of age shall not permit the child to operate a 3-wheeled ATV.

(4) Subject to subsections (5), (6), and (17), the owner or person in charge of an ORV shall not knowingly permit the vehicle to be operated by a child less than 16 years of age unless the child is under the direct visual supervision of an adult and the child has in his or her immediate possession an ORV safety certificate issued pursuant to this part or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

(5) The owner or person in charge of a 4-wheeled ATV shall not knowingly permit the vehicle to be operated by a child less than 12 years of age, unless the child is not less than 10 years of age and is on private land owned by a parent or legal guardian of the child. This subsection does not apply to the operation of an ATV used in agricultural operations.

(6) The owner or person in charge of a 3-wheeled ATV shall not knowingly permit the vehicle to be operated by a child less than 16 years of age.

(7) The owner or person in charge of an ORV shall not knowingly permit the vehicle to be operated by a person who is incompetent to operate the vehicle because of mental or physical disability except as provided in section 81131.

(8) The department shall implement a comprehensive ORV information, safety education, and training program that shall include the training of operators and the preparation and dissemination of information and safety advice to the public. The program shall provide for the training of youthful operators and for the issuance of ORV safety certificates to those who successfully complete the training provided under the program and may include separate instruction for each type of ORV.

(9) In implementing a program that is established pursuant to this section, the department shall cooperate with private organizations and associations, private and public corporations, the department of education, the department of state, and local governmental units. The department shall consult with ORV and environmental organizations and associations in regard to the subject matter of a training program and performance testing that leads to certification of ORV operators.

(10) The department may designate a person it considers qualified to provide course instruction and to award ORV safety certificates.

(11) The department may promulgate rules to implement subsections (8) to (10).

(12) Subject to subsections (13), (14), and (17), a child who is less than 16 years of age may operate an ORV if the child is under the direct visual supervision of an adult and the child has in his or her immediate possession an ORV safety certificate issued pursuant to this section or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

(13) A child who is less than 12 years of age shall not operate a 4-wheeled ATV, unless the child is not less than 10 years of age and is on private land owned by a parent or legal guardian of the child. This subsection does not apply to the operation of an ATV used in agricultural operations.

(14) A child who is less than 16 years of age shall not operate a 3-wheeled ATV.

(15) When operating an ORV under subsection (12), a child shall present the ORV safety certificate to a peace officer upon demand.

(16) Notwithstanding any other provision of this section, an operator who is less than 12 years of age shall not cross a highway or street. An operator who is not less than 12 years of age but less than 16 years of age may cross a highway or street or operate on the right-of-way or shoulder of designated access routes pursuant to section 81131 if the operator has a valid ORV safety certificate in his or her immediate possession and meets any other requirements under this section for operation of the vehicle.

(17) The requirement of possession or presentation of an ORV safety certificate under this section does not apply until implementation of the program for the vehicle proposed to be operated required by subsection (8).

Sec. 81130. (1) A person who is under 16 years of age, before operating an ATV or ORV, shall complete an ORV safety education course approved by the department. This course may include a written examination and a driving test designed to test the competency of the applicant. Upon successful completion of this safety education course, a person shall receive an ORV safety certificate.

(2) A safety education course conducted by a college or university, an intermediate school district, a local school district, a law enforcement agency, or another governmental agency located in this state or by a department approved nonprofit service organization shall be conducted in compliance with this section. An agency or a school conducting a course under this subsection may apply to the department for a grant from the fund for costs associated with conducting a course.

(3) Except for a course conducted by a private business enterprise as provided by subsection (4), an applicant for a safety education course under this section shall pay not more than a \$25.00 course fee or in the case of a university or community college a fee not more than the cost of 1 credit hour of instruction. The course fees shall only be used for funding the administration and implementation of the course.

(4) An ATV or ORV, or both, safety education course required by this section and approved by the department may be conducted by a private business enterprise. A private business enterprise may charge a course fee not to exceed the cost of conducting the course.

(5) The director shall designate a person to be the state coordinator of the ATV and ORV safety education program. A person designated under this subsection shall have successfully completed ATV and ORV safety courses.

(6) The director shall designate a person who has successfully completed ATV and ORV safety courses to perform annual inspections of course sites.

Enacting section 1. This amendatory act takes effect October 1, 2003.

Enacting section 2. Section 81125 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81125, is repealed.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Jay E. Randall

Clerk of the House of Representatives

Approved

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Governor