



SENATE BILL No. 1201

November 7, 1996, Introduced by Senator BULLARD and referred to the Committee on Judiciary.

A bill to amend section 81134 of Act No. 451 of the Public Acts of 1994, entitled "Natural resources and environmental protection act," as amended by Act No. 175 of the Public Acts of 1996, being section 324.81134 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 81134 of Act No. 451 of the Public Acts
2 of 1994, as amended by Act No. 175 of the Public Acts of 1996,
3 being section 324.81134 of the Michigan Compiled Laws, is amended
4 to read as follows:

5 Sec. 81134. (1) A person who is under the influence of
6 intoxicating liquor or a controlled substance, as defined by
7 section 7104 of the public health code, Act No. 368 of the Public
8 Acts of 1978, being section 333.7104 of the Michigan Compiled

1 Laws, or a combination of intoxicating liquor and a controlled
2 substance shall not operate an ORV.

3 (2) A person who has an alcohol content of 0.10 grams or
4 more per 100 milliliters of blood, per 210 liters of breath, or
5 per 67 milliliters of urine shall not operate an ORV.

6 (3) The owner or person in charge or in control of an ORV
7 shall not authorize or knowingly permit the ORV to be operated by
8 a person who is under the influence of intoxicating liquor or a
9 controlled substance or a combination of intoxicating liquor and
10 a controlled substance.

11 (4) Except as otherwise provided in this section, a person
12 who is convicted of a violation of subsection (1), (2), or (3) is
13 guilty of a misdemeanor, punishable by imprisonment for not more
14 than 90 days, or a fine of not less than \$100.00 or more than
15 \$500.00, or both, together with costs of the prosecution. As
16 part of the sentence for a violation of subsection (1) or (2),
17 the court shall order the person convicted not to operate an ORV
18 for a period of not less than 6 months or more than 2 years.

19 (5) On a second conviction under subsection (1) or (2) or a
20 local ordinance substantially corresponding to subsection (1) or
21 (2) within a period of 7 years, a person is guilty of a misde-
22 meanor, punishable by imprisonment for not more than 1 year, or a
23 fine of not more than \$1,000.00, or both. As part of the sen-
24 tence, the court shall order the person convicted not to operate
25 an ORV for a period of not less than 1 year or more than 2
26 years.

1 (6) On a third or subsequent conviction within a period of
2 10 years under subsection (1) or (2) or a local ordinance
3 substantially corresponding to subsection (1) or (2), a person is
4 guilty of a felony. As part of the sentence, the court shall
5 order the person convicted not to operate an ORV for a period of
6 not less than 1 year or more than 2 years.

7 (7) A PERSON WHO OPERATES AN ORV WITHIN THIS STATE IN VIOLA-
8 TION OF SUBSECTION (1), (2), OR (3) AND BY THE OPERATION OF THAT
9 ORV CAUSES A SERIOUS IMPAIRMENT OF A BODY FUNCTION OF ANOTHER
10 PERSON IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT
11 MORE THAN 5 YEARS OR A FINE OF NOT LESS THAN \$1,000.00 OR MORE
12 THAN \$5,000.00, OR BOTH. AS USED IN THIS SUBSECTION, "SERIOUS
13 IMPAIRMENT OF A BODY FUNCTION" INCLUDES, BUT IS NOT LIMITED TO, 1
14 OR MORE OF THE FOLLOWING:

15 (A) LOSS OF A LIMB OR USE OF A LIMB.

16 (B) LOSS OF A HAND, FOOT, FINGER, OR THUMB OR USE OF A HAND,
17 FOOT, FINGER, OR THUMB.

18 (C) LOSS OF AN EYE OR EAR OR USE OF AN EYE OR EAR.

19 (D) LOSS OR SUBSTANTIAL IMPAIRMENT OF A BODILY FUNCTION.

20 (E) SERIOUS VISIBLE DISFIGUREMENT.

21 (F) A COMATOSE STATE THAT LASTS FOR MORE THAN 3 DAYS.

22 (G) MEASURABLE BRAIN DAMAGE OR MENTAL IMPAIRMENT.

23 (H) A SKULL FRACTURE OR OTHER SERIOUS BONE FRACTURE.

24 (I) SUBDURAL HEMORRHAGE OR SUBDURAL HEMATOMA.

25 (8) ~~(7)~~ As part of the sentence for a violation of subsec-
26 tion (1) or (2), or a local ordinance substantially corresponding
27 to subsection (1) or (2), the court may order the person to

1 perform service to the community, as designated by the court,
2 without compensation, for a period not to exceed 12 days. The
3 person shall reimburse the state or appropriate local unit of
4 government for the cost of insurance incurred by the state or
5 local unit of government as a result of the person's activities
6 under this subsection.

7 (9) ~~(8)~~ Before imposing sentence for a violation of sub-
8 section (1) or (2) or a local ordinance substantially correspond-
9 ing to subsection (1) or (2), the court shall order the person to
10 undergo screening and assessment by a person or agency designated
11 by the office of substance abuse services, to determine whether
12 the person is likely to benefit from rehabilitative services,
13 including alcohol or drug education and alcohol or drug treatment
14 programs. As part of the sentence, the court may order the
15 person to participate in and successfully complete 1 or more
16 appropriate rehabilitative programs. The person shall pay for
17 the costs of the screening, assessment, and rehabilitative
18 services.

19 (10) ~~(9)~~ Before accepting a plea of guilty under this sec-
20 tion, the court shall advise the accused of the statutory conse-
21 quences possible as the result of a plea of guilty in respect to
22 suspension of the person's right to operate an ORV and the pen-
23 alty imposed for violation of this section.