

SUBSTITUTE FOR
SENATE BILL NO. 1045

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 40111, 81101, and 81133 (MCL 324.40111,
324.81101, and 324.81133), section 40111 as added by 1995 PA 57,
section 81101 as amended by 2009 PA 200, and section 81133 as
amended by 2008 PA 365.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 40111. (1) Except as otherwise provided in **SUBSECTION**
2 **(3)**, this part, or in a department order authorized under section
3 40107, ~~a person~~**AN INDIVIDUAL** shall not take an animal from in or
4 upon a vehicle.

5 (2) Except as otherwise provided in **SUBSECTION (3)**, this part,
6 or in a department order authorized under section 40107, ~~a person~~
7 **AN INDIVIDUAL** shall not transport or ~~have in possession~~**POSSESS** a

1 firearm in or upon a vehicle, unless the firearm is unloaded in
2 both barrel and magazine and enclosed in a case, carried in the
3 trunk of a vehicle, or unloaded in a motorized boat.

4 (3) A PERSON WITH A DISABILITY MAY TRANSPORT OR POSSESS A
5 FIREARM IN OR UPON A VEHICLE, EXCEPT FOR A CAR OR TRUCK, ON A STATE
6 LICENSED GAME BIRD HUNTING PRESERVE IF THE FIREARM IS UNLOADED AND
7 THE VEHICLE IS OPERATED AT A SPEED OF NOT GREATER THAN 10 MILES PER
8 HOUR. A PERSON WITH A DISABILITY MAY POSSESS A LOADED FIREARM AND
9 MAY DISCHARGE THAT FIREARM TO TAKE AN ANIMAL FROM IN OR UPON A
10 VEHICLE, EXCEPT FOR A CAR OR TRUCK, ON A STATE LICENSED GAME BIRD
11 HUNTING PRESERVE IF THE VEHICLE IS NOT MOVING. THE DEPARTMENT MAY
12 DEMAND PROOF OF ELIGIBILITY UNDER THIS SUBSECTION. AN INDIVIDUAL
13 SHALL POSSESS PROOF OF HIS OR HER ELIGIBILITY UNDER THIS SUBSECTION
14 AND FURNISH THE PROOF UPON THE REQUEST OF A PEACE OFFICER.

15 (4) ~~(3)~~ Except as otherwise provided in this part, ~~a person~~ AN
16 INDIVIDUAL shall not transport or ~~have in possession~~ POSSESS a bow
17 in or upon a vehicle, unless the bow is unstrung, enclosed in a
18 case, or carried in the trunk of a vehicle.

19 (5) ~~(4)~~ A ~~person~~ AN INDIVIDUAL shall not hunt or discharge a
20 firearm within 150 yards of an occupied building, dwelling, house,
21 residence, or cabin, or any barn or other building used in
22 connection with a farm operation, without obtaining the written
23 permission of the owner, renter, or occupant of the property.

24 (6) AS USED IN THIS SECTION:

25 (A) "PERSON WITH A DISABILITY" MEANS A DISABLED PERSON AS THAT
26 TERM IS DEFINED IN SECTION 19A OF THE MICHIGAN VEHICLE CODE, 1949
27 PA 300, MCL 257.19A, AND WHO IS IN POSSESSION OF 1 OF THE

1 FOLLOWING:

2 (i) A CERTIFICATE OF IDENTIFICATION OR WINDSHIELD PLACARD
3 ISSUED TO A DISABLED PERSON UNDER SECTION 675 OF THE MICHIGAN
4 VEHICLE CODE, 1949 PA 300, MCL 257.675.

5 (ii) A SPECIAL REGISTRATION PLATE ISSUED TO A DISABLED PERSON
6 UNDER SECTION 803D OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL
7 257.803D.

8 (B) "UNLOADED" MEANS, FOR A BREAK-ACTION FIREARM, THAT THE
9 ACTION IS OPEN WITH THE BREECH EXPOSED, WHETHER OR NOT THE BREECH
10 CONTAINS A SHELL. UNLOADED MEANS, FOR A NON-BREAK-ACTION FIREARM,
11 THAT THE BARREL OF THE FIREARM DOES NOT CONTAIN A SHELL.

12 Sec. 81101. As used in this part:

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

17 (b) "Code" means the Michigan vehicle code, 1949 PA 300, MCL
18 257.1 to 257.923.

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

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

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

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

1 (ii) A vehicle used in connection with a farm operation as that
2 term is defined in section 2 of the Michigan right to farm act,
3 1981 PA 93, MCL 286.472.

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

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

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

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

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

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

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

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

27 (n) "Operator" means a person who operates or is in actual

1 physical control of the operation of an ORV.

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

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

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

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

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

27 (q) "Person with ~~disabilities~~" **A DISABILITY** means a person

1 who has 1 or more of the following physical characteristics:

2 (i) Blindness.

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

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

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

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

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

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

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

27 (s) "Public agency" means the department or a local or federal

1 unit of government.

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

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

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

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

14 Sec. 81133. ~~A person~~ **AN INDIVIDUAL** shall not operate an ORV:

15 (a) At a rate of speed greater than is reasonable and proper,
16 or in a careless manner having due regard for conditions then
17 existing.

18 (b) Unless the ~~person~~ **INDIVIDUAL** and any passenger in or on
19 the vehicle is wearing on his or her head a crash helmet and
20 protective eyewear approved by the United States department of
21 transportation. This subdivision does not apply ~~if the~~ **TO EITHER OF**
22 **THE FOLLOWING:**

23 (i) **THE OPERATOR OF OR A PASSENGER IN A** vehicle **THAT** is
24 equipped with a roof that meets or exceeds standards for a crash
25 helmet ~~and~~ **IF** the operator and each passenger is wearing a properly
26 adjusted and fastened safety belt.

27 (ii) **THE OPERATOR OF OR A PASSENGER IN AN ORV THAT IS OPERATED**

1 ON A STATE LICENSED GAME BIRD HUNTING PRESERVE AT A SPEED OF NOT
2 GREATER THAN 10 MILES PER HOUR.

3 (c) During the hours of 1/2 hour after sunset to 1/2 hour
4 before sunrise without displaying a lighted headlight and lighted
5 taillight. The requirements of this subdivision are in addition to
6 any applicable requirements of section 81131(8).

7 (d) Unless equipped with a braking system that may be operated
8 by hand or foot, capable of producing deceleration at 14 feet per
9 second on level ground at a speed of 20 miles per hour; a brake
10 light, brighter than the taillight, visible when the brake is
11 activated to the rear of the vehicle when the vehicle is operated
12 during the hours of 1/2 hour after sunset and 1/2 hour before
13 sunrise; and a throttle so designed that when the pressure used to
14 advance the throttle is removed, the engine speed will immediately
15 and automatically return to idle.

16 (e) In a state game area or state park or recreation area,
17 except on roads, trails, or areas designated for this purpose; on
18 state owned lands under the control of the department other than
19 game areas, state parks, or recreational areas where the operation
20 would be in violation of rules promulgated by the department; in a
21 forest nursery or planting area; on public lands posted or
22 reasonably identifiable as an area of forest reproduction, and when
23 growing stock may be damaged; in a dedicated natural area of the
24 department; or in any area in such a manner as to create an erosive
25 condition, or to injure, damage, or destroy trees or growing crops.
26 However, the department may permit an owner and guests of the owner
27 to use an ORV within the boundaries of a state forest in order to

1 access the owner's property.

2 (f) On the frozen surface of public waters within 100 feet of
3 ~~a person~~**AN INDIVIDUAL** not in or upon a vehicle, or within 100 feet
4 of a fishing shanty or shelter or an area that is cleared of snow
5 for skating purposes, except at the minimum speed required to
6 maintain controlled forward movement of the vehicle, or as may be
7 authorized by permit in special events.

8 (g) Unless the vehicle is equipped with a spark arrester type
9 United States forest service approved muffler, in good working
10 order and in constant operation. Exhaust noise emission shall not
11 exceed 86 Db(A) or 82 Db(A) on a vehicle manufactured after January
12 1, 1986, when the vehicle is under full throttle, traveling in
13 second gear, and measured 50 feet at right angles from the vehicle
14 path with a sound level meter that meets the requirement of ANSI
15 S1.4 1983, using procedure and ancillary equipment therein
16 described; or 99 Db(A) or 94 Db(A) on a vehicle manufactured after
17 January 1, 1986, or that level comparable to the current sound
18 level as provided for by the United States environmental protection
19 agency when tested according to the provisions of the current SAE
20 J1287, June 86 test procedure for exhaust levels of stationary
21 motorcycles, using sound level meters and ancillary equipment
22 therein described. A vehicle subject to this part, manufactured or
23 assembled after December 31, 1972 and used, sold, or offered for
24 sale in this state, shall conform to the noise emission levels
25 established by the United States environmental protection agency
26 under the noise control act of 1972, 42 USC 4901 to 4918.

27 (h) Within 100 feet of a dwelling at a speed greater than the

1 minimum required to maintain controlled forward movement of the
2 vehicle, except on property owned or under the operator's control
3 or on which the operator is an invited guest, or on a roadway,
4 forest road, or forest trail maintained by or under the
5 jurisdiction of the department, or on a road or street on which ORV
6 use is authorized ~~pursuant to~~ **UNDER** section 81131(2), (3), or (5).

7 (i) In or upon the lands of another without the written
8 consent of the owner, the owner's agent, or a lessee, when required
9 by part 731. The operator of the vehicle is liable for damage to
10 private property, including, but not limited to, damage to trees,
11 shrubs, or growing crops, injury to other living creatures, or
12 damage caused through vehicle operation in a manner so as to create
13 erosive or other ecological damage. The owner of the private
14 property may recover from the ~~person~~ **INDIVIDUAL** responsible nominal
15 damages of not less than the amount of damage or injury. Failure to
16 post private property or fence or otherwise enclose in a manner to
17 exclude intruders or of the private property owner or other
18 authorized person to personally communicate against trespass does
19 not imply consent to ORV use.

20 (j) In an area on which public hunting is permitted during the
21 regular November firearm deer season from 7 a.m. to 11 a.m. and
22 from 2 p.m. to 5 p.m., except during an emergency or for law
23 enforcement purposes, to go to and from a permanent residence or a
24 hunting camp otherwise inaccessible by a conventional wheeled
25 vehicle, to remove from public land a deer, elk, or bear that has
26 been taken under a valid license; except for the conduct of
27 necessary work functions involving land and timber survey,

1 communication and transmission line patrol, and timber harvest
2 operations; or except on property owned or under control of the
3 operator or on which the operator is an invited guest. A hunter
4 removing game under this subdivision may leave the designated trail
5 or forest road only to retrieve the game and shall not exceed 5
6 miles per hour. A vehicle registered under the code is exempt from
7 this subdivision while operating on a public highway or public or
8 private road capable of sustaining automobile traffic. A person
9 holding a valid permit to hunt from a standing vehicle issued under
10 part 401, or a person with ~~disabilities~~ **A DISABILITY** using an ORV
11 to access public lands for purposes of hunting or fishing through
12 use of a designated trail or forest road, is exempt from this
13 subdivision. ~~A person~~ **AN INDIVIDUAL** holding a valid permit to hunt
14 from a standing vehicle issued under part 401, or a person with
15 ~~disabilities~~ **A DISABILITY** using an ORV to access public lands for
16 purposes of hunting or fishing, may display a flag, the color of
17 which the department shall determine, to identify himself or
18 herself as a person with ~~disabilities~~ **A DISABILITY** or ~~a person~~ **AN**
19 **INDIVIDUAL** holding a permit to hunt from a standing vehicle under
20 part 401.

21 (k) ~~While~~ **EXCEPT AS OTHERWISE PROVIDED IN SECTION 40111, WHILE**
22 transporting on the vehicle a bow unless unstrung or encased, or a
23 firearm unless unloaded and securely encased, or equipped with and
24 made inoperative by a manufactured keylocked trigger housing
25 mechanism.

26 (l) On or across a cemetery or burial ground, or land used as
27 an airport.

1 (m) Within 100 feet of a slide, ski, or skating area, unless
2 the vehicle is being used for the purpose of servicing the area or
3 is being operated pursuant to section 81131(2), (3), or (5).

4 (n) On an operating or nonabandoned railroad or railroad
5 right-of-way, or public utility right-of-way, other than for the
6 purpose of crossing at a clearly established site intended for
7 vehicular traffic, except railroad, public utility, or law
8 enforcement personnel while in performance of their duties, and
9 except if the right-of-way is designated as provided for in section
10 81127.

11 (o) In or upon the waters of any stream, river, bog, wetland,
12 swamp, marsh, or quagmire except over a bridge, culvert, or similar
13 structure.

14 (p) To hunt, pursue, worry, kill, or attempt to hunt, pursue,
15 worry, or kill an animal, whether wild or domesticated.

16 (q) In a manner so as to leave behind litter or other debris.

17 (r) In a manner contrary to operating regulations on public
18 lands.

19 (s) While transporting or possessing, in or on the vehicle,
20 alcoholic liquor in a container that is open or uncapped or upon
21 which the seal is broken, except under either of the following
22 circumstances:

23 (i) The container is in a trunk or compartment separate from
24 the passenger compartment of the vehicle.

25 (ii) If the vehicle does not have a trunk or compartment
26 separate from the passenger compartment, the container is encased
27 or enclosed.

1 (t) While transporting any passenger in or upon an ORV unless
2 the manufacturing standards for the vehicle make provisions for
3 transporting passengers.

4 (u) On adjacent private land, in an area zoned residential,
5 within 300 feet of a dwelling at a speed greater than the minimum
6 required to maintain controlled forward movement of the vehicle
7 except on a roadway, forest road, or forest trail maintained by or
8 under the jurisdiction of the department, or on a road or street on
9 which ORV use is authorized ~~pursuant to~~ **UNDER** section 81131(2),
10 (3), or (5).