

SENATE BILL No. 371

May 10, 2011, Introduced by Senators BOOHER, PAVLOV, MEEKHOF and MARLEAU and referred to the Committee on Outdoor Recreation and Tourism.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 81131 (MCL 324.81131), as amended by 2009 PA
175.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 81131. (1) A municipality may pass an ordinance allowing
2 a permanently disabled person to operate an ORV in that
3 municipality.

4 (2) Subject to subsections (4) and (7), the county board of
5 commissioners of an eligible county may adopt an ordinance
6 authorizing the operation of ORVs on the maintained portion of 1 or
7 more roads located within the county. Not less than 45 days before
8 a public hearing on the ordinance, the county clerk shall send
9 notice of the public hearing, by certified mail, to the county road

1 commission and, if state forestland is located within the county,
2 to the department.

3 (3) Subject to subsections (4) and (7), ~~beginning July 17,~~
4 ~~2009,~~ the township board of a township located in an eligible
5 county may adopt an ordinance authorizing the operation of ORVs on
6 the maintained portion of 1 or more roads located within the
7 township. Not less than 28 days before a public hearing on the
8 ordinance, the township clerk shall send notice of the public
9 hearing, by certified mail, to the county road commission and, if
10 state forestland is located within the township, to the department.
11 **THIS SUBSECTION DOES NOT APPLY TO A TOWNSHIP UNTIL 1 YEAR AFTER THE**
12 **EFFECTIVE DATE OF THE AMENDATORY ACT THAT FIRST DEFINED ELIGIBLE**
13 **COUNTY SO AS TO INCLUDE THE COUNTY IN WHICH THAT TOWNSHIP IS**
14 **LOCATED.**

15 (4) The board of county road commissioners may close a road to
16 the operation of ORVs under subsection (2) or (3) to protect the
17 environment or if the operation of ORVs under subsection (2) or (3)
18 poses a particular and demonstrable threat to public safety. A
19 county road commission shall not under this subsection close more
20 than 30% of the linear miles of roads located within the county to
21 the operation of ORVs under subsection (2) or (3). The township
22 board of a township located in an eligible county may adopt an
23 ordinance to close a road to the operation of ORVs under subsection
24 (2).

25 (5) Subject to subsection (7), the legislative body of a
26 municipality located in an eligible county may adopt an ordinance
27 authorizing the operation of ORVs on the maintained portion of 1 or

1 more streets within the municipality.

2 (6) Subject to subsections (4) and (7), if a local unit of
3 government adopts an ordinance pursuant to subsection (2), (3), or
4 (5), a person may operate an ORV with the flow of traffic on the
5 far right of the maintained portion of the road or street covered
6 by the ordinance. A person shall not operate an ORV pursuant to
7 subsection (2), (3), or (5) at a speed greater than 25 miles per
8 hour or a lower posted ORV speed limit or in a manner that
9 interferes with traffic on the road or street. Unless the person
10 possesses a license as defined in section 25 of the Michigan
11 vehicle code, 1949 PA 300, MCL 257.25, a person shall not operate
12 an ORV pursuant to subsection (2), (3), or (5) if the ORV is
13 registered as a motor vehicle under chapter II of the Michigan
14 vehicle code, 1949 PA 300, MCL 257.201 to 257.259, and either is
15 more than 60 inches wide or has 3 wheels. ORVs operated pursuant to
16 subsection (2), (3), or (5) shall travel single file, except that
17 an ORV may travel abreast of another ORV when it is overtaking and
18 passing, or being overtaken and passed by, another ORV.

19 (7) Subsections (2) to (6) and an ordinance adopted under
20 subsection (2), (3), or (5) do not apply after July 16, 2013. **AN**
21 **ORDINANCE ADOPTED UNDER SUBSECTION (2), (3), OR (5) DOES NOT APPLY**
22 **SOUTH OF STATE TRUNK LINE HIGHWAY 46. FOR THE PURPOSES OF THIS**
23 **SUBSECTION, STATE TRUNK LINE HIGHWAY 46 SHALL BE CONSIDERED TO**
24 **EXTEND DUE WEST FROM ITS WESTERLY TERMINUS TO LAKE MICHIGAN AND DUE**
25 **EAST FROM ITS EASTERLY TERMINUS TO LAKE HURON.**

26 (8) In addition to any applicable requirement of section
27 81133(c), a person shall not operate an ORV pursuant to this

1 section when visibility is substantially reduced due to weather
2 conditions without displaying a lighted headlight and lighted
3 taillight. ~~Beginning January 1, 2010, a~~ A person shall not operate
4 an ORV pursuant to this section without displaying a lighted
5 headlight and lighted taillight.

6 (9) A person under 18 years of age shall not operate an ORV
7 pursuant to this section unless the person is in possession of a
8 valid driver license or under the direct supervision of a parent or
9 guardian and the person has in his or her immediate possession an
10 ORV safety certificate issued pursuant to this part or a comparable
11 ORV safety certificate issued under the authority of another state
12 or a province of Canada. A person under 12 years of age shall not
13 operate an ORV pursuant to this section. The requirements of this
14 subsection are in addition to any applicable requirements of
15 section 81129.

16 (10) A township that has authorized the operation of ORVs on a
17 road under subsection (3) does not have a duty to maintain the road
18 in a condition reasonably safe and convenient for the operation of
19 ORVs. A board of county road commissioners, a county board of
20 commissioners, or a municipality does not have a duty to maintain a
21 road or street under its jurisdiction in a condition reasonably
22 safe and convenient for the operation of ORVs, except the following
23 ORVs:

24 (a) ORVs registered as motor vehicles as provided in the code.

25 (b) ORVs permitted by an ordinance as provided in subsection

26 (1).

27 (11) Beginning October 19, 1993, a board of county road

1 commissioners, a county board of commissioners, and a county are,
2 and, beginning on April 25, 1995, a municipality is, immune from
3 tort liability for injuries or damages sustained by any person
4 arising in any way out of the operation or use of an ORV on
5 maintained or unmaintained roads, streets, shoulders, and rights-
6 of-way over which the board of county road commissioners, the
7 county board of commissioners, or the municipality has
8 jurisdiction. The immunity provided by this subsection does not
9 apply to actions that constitute gross negligence. As used in this
10 subsection, "gross negligence" means conduct so reckless as to
11 demonstrate a substantial lack of concern for whether an injury
12 results.

13 (12) In a court action in this state, if competent evidence
14 demonstrates that a vehicle that is permitted to operate on a road
15 or street pursuant to the code was in a collision with an ORV
16 required to be operated on the far right of the maintained portion
17 of a road or street pursuant to an ordinance adopted under
18 subsection (2), (3), or (5), the operator of the ORV shall be
19 considered prima facie negligent.

20 (13) A violation of an ordinance described in this section is
21 a municipal civil infraction. The ordinance may provide for a
22 maximum fine of not more than \$500.00 for a violation of the
23 ordinance. In addition, the court shall order the defendant to pay
24 the cost of repairing any damage to the environment, a road or
25 street, or public property damaged as a result of the violation.

26 (14) The treasurer of the local unit of government shall
27 deposit fines collected by that local unit of government under

1 section 8379 of the revised judicature act of 1961, 1961 PA 236,
2 MCL 600.8379, and subsection (13) and damages collected under
3 subsection (13) into a fund to be designated as the "ORV fund". The
4 legislative body of the local unit of government shall appropriate
5 revenue in the ORV fund as follows:

6 (a) Fifty percent to the county sheriff or police department
7 responsible for law enforcement in the local unit of government for
8 ORV enforcement and training.

9 (b) Fifty percent to the board of county road commissioners
10 or, in the case of a city or village, to the department responsible
11 for street maintenance in the city or village, for repairing damage
12 to roads or streets and the environment that may have been caused
13 by ORVs and for posting signs indicating ORV speed limits or
14 indicating whether roads or streets are open or closed to the
15 operation of ORVs under this section.

16 (15) As used in this section:

17 (a) "Eligible county" means any of the following:

18 (i) ~~Mason, Lake, Osceola, Clare, Gladwin, Arenac, or Bay~~
19 **MUSKEGON, KENT, MONTCALM, GRATIOT, SAGINAW, TUSCOLA, OR SANILAC**
20 county or a county lying north thereof, including all of the
21 counties of the Upper Peninsula.

22 (ii) ~~Huron, Tuscola, Sanilac, Saginaw, Gratiot, Montcalm, or~~
23 St. Clair county.

24 (b) "Local unit of government" means a county, township, or
25 municipality.

26 (c) "Municipality" means a city or village.

27 (d) "Road" means a county primary road or county local road as

1 described in section 5 of 1951 PA 51, MCL 247.655.

2 (e) "Street" means a city or village major street or city or
3 village local street as described in section 9 of 1951 PA 51, MCL
4 247.659.