

SENATE BILL No. 1045

March 27, 2012, Introduced by Senator GLEASON 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 sections 40111 and 81133 (MCL 324.40111 and 324.81133), section 40111 as added by 1995 PA 57 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 this part or
2 in a department order authorized under section 40107, ~~a person~~ **AN**
3 **INDIVIDUAL** shall not take an animal from in or upon a vehicle.

4 (2) Except as otherwise provided in **SUBSECTION (3)**, this part,
5 or in a department order authorized under section 40107, ~~a person~~
6 **AN INDIVIDUAL** shall not transport or ~~have in possession~~ **POSSESS** a
7 firearm in or upon a vehicle, unless the firearm is unloaded in
8 both barrel and magazine and enclosed in a case, carried in the
9 trunk of a vehicle, or unloaded in a motorized boat.

1 (3) A DISABLED INDIVIDUAL MAY TRANSPORT OR POSSESS A FIREARM
2 IN OR UPON A VEHICLE, EXCEPT FOR A CAR OR TRUCK, ON A STATE
3 LICENSED GAME BIRD HUNTING PRESERVE IF THE FIREARM IS UNLOADED AND
4 THE VEHICLE IS OPERATED AT A SPEED OF NOT GREATER THAN 10 MILES PER
5 HOUR. THE DEPARTMENT MAY DEMAND PROOF OF ELIGIBILITY UNDER THIS
6 SUBSECTION. AN INDIVIDUAL SHALL POSSESS PROOF OF HIS OR HER
7 ELIGIBILITY UNDER THIS SUBSECTION AND FURNISH THE PROOF UPON THE
8 REQUEST OF A PEACE OFFICER.

9 (4) ~~(3)~~ Except as otherwise provided in this part, ~~a person~~ AN
10 INDIVIDUAL shall not transport or ~~have in possession~~ POSSESS a bow
11 in or upon a vehicle, unless the bow is unstrung, enclosed in a
12 case, or carried in the trunk of a vehicle.

13 (5) ~~(4)~~ A ~~person~~ AN INDIVIDUAL shall not hunt or discharge a
14 firearm within 150 yards of an occupied building, dwelling, house,
15 residence, or cabin, or any barn or other building used in
16 connection with a farm operation, without obtaining the written
17 permission of the owner, renter, or occupant of the property.

18 (6) AS USED IN THIS SECTION:

19 (A) "DISABLED INDIVIDUAL" MEANS A DISABLED PERSON AS THAT TERM
20 IS DEFINED IN SECTION 19A OF THE MICHIGAN VEHICLE CODE, 1949 PA
21 300, MCL 257.19A.

22 (B) "UNLOADED" MEANS, FOR A BREAK-ACTION FIREARM, THAT THE
23 ACTION IS OPEN WITH THE BREECH EXPOSED, WHETHER OR NOT THE BREECH
24 CONTAINS A SHELL. UNLOADED MEANS, FOR A NON-BREAK-ACTION FIREARM,
25 THAT THE BARREL OF THE FIREARM DOES NOT CONTAIN A SHELL.

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

27 (a) At a rate of speed greater than is reasonable and proper,

1 or in a careless manner having due regard for conditions then
2 existing.

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

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

12 (ii) **THE OPERATOR OF OR A PASSENGER IN AN ORV THAT IS OPERATED**
13 **ON A STATE LICENSED GAME BIRD HUNTING PRESERVE AT A SPEED OF NOT**
14 **GREATER THAN 10 MILES PER HOUR.**

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

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

1 (e) In a state game area or state park or recreation area,
2 except on roads, trails, or areas designated for this purpose; on
3 state owned lands under the control of the department other than
4 game areas, state parks, or recreational areas where the operation
5 would be in violation of rules promulgated by the department; in a
6 forest nursery or planting area; on public lands posted or
7 reasonably identifiable as an area of forest reproduction, and when
8 growing stock may be damaged; in a dedicated natural area of the
9 department; or in any area in such a manner as to create an erosive
10 condition, or to injure, damage, or destroy trees or growing crops.
11 However, the department may permit an owner and guests of the owner
12 to use an ORV within the boundaries of a state forest in order to
13 access the owner's property.

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

20 (g) Unless the vehicle is equipped with a spark arrester type
21 United States forest service approved muffler, in good working
22 order and in constant operation. Exhaust noise emission shall not
23 exceed 86 Db(A) or 82 Db(A) on a vehicle manufactured after January
24 1, 1986, when the vehicle is under full throttle, traveling in
25 second gear, and measured 50 feet at right angles from the vehicle
26 path with a sound level meter that meets the requirement of ANSI
27 S1.4 1983, using procedure and ancillary equipment therein

1 described; or 99 Db(A) or 94 Db(A) on a vehicle manufactured after
2 January 1, 1986, or that level comparable to the current sound
3 level as provided for by the United States environmental protection
4 agency when tested according to the provisions of the current SAE
5 J1287, June 86 test procedure for exhaust levels of stationary
6 motorcycles, using sound level meters and ancillary equipment
7 therein described. A vehicle subject to this part, manufactured or
8 assembled after December 31, 1972 and used, sold, or offered for
9 sale in this state, shall conform to the noise emission levels
10 established by the United States environmental protection agency
11 under the noise control act of 1972, 42 USC 4901 to 4918.

12 (h) Within 100 feet of a dwelling at a speed greater than the
13 minimum required to maintain controlled forward movement of the
14 vehicle, except on property owned or under the operator's control
15 or on which the operator is an invited guest, or on a roadway,
16 forest road, or forest trail maintained by or under the
17 jurisdiction of the department, or on a road or street on which ORV
18 use is authorized ~~pursuant to~~ **UNDER** section 81131(2), (3), or (5).

19 (i) In or upon the lands of another without the written
20 consent of the owner, the owner's agent, or a lessee, when required
21 by part 731. The operator of the vehicle is liable for damage to
22 private property, including, but not limited to, damage to trees,
23 shrubs, or growing crops, injury to other living creatures, or
24 damage caused through vehicle operation in a manner so as to create
25 erosive or other ecological damage. The owner of the private
26 property may recover from the ~~person~~ **INDIVIDUAL** responsible nominal
27 damages of not less than the amount of damage or injury. Failure to

1 post private property or fence or otherwise enclose in a manner to
2 exclude intruders or of the private property owner or other
3 authorized person to personally communicate against trespass does
4 not imply consent to ORV use.

5 (j) In an area on which public hunting is permitted during the
6 regular November firearm deer season from 7 a.m. to 11 a.m. and
7 from 2 p.m. to 5 p.m., except during an emergency or for law
8 enforcement purposes, to go to and from a permanent residence or a
9 hunting camp otherwise inaccessible by a conventional wheeled
10 vehicle, to remove from public land a deer, elk, or bear that has
11 been taken under a valid license; except for the conduct of
12 necessary work functions involving land and timber survey,
13 communication and transmission line patrol, and timber harvest
14 operations; or except on property owned or under control of the
15 operator or on which the operator is an invited guest. A hunter
16 removing game under this subdivision may leave the designated trail
17 or forest road only to retrieve the game and shall not exceed 5
18 miles per hour. A vehicle registered under the code is exempt from
19 this subdivision while operating on a public highway or public or
20 private road capable of sustaining automobile traffic. A person
21 holding a valid permit to hunt from a standing vehicle issued under
22 part 401, or a person with disabilities using an ORV to access
23 public lands for purposes of hunting or fishing through use of a
24 designated trail or forest road, is exempt from this subdivision. A
25 ~~person~~**AN INDIVIDUAL** holding a valid permit to hunt from a standing
26 vehicle issued under part 401, or a person with disabilities using
27 an ORV to access public lands for purposes of hunting or fishing,

1 may display a flag, the color of which the department shall
2 determine, to identify himself or herself as a person with
3 disabilities or ~~a person~~ **AN INDIVIDUAL** holding a permit to hunt
4 from a standing vehicle under part 401.

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

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

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

15 (n) On an operating or nonabandoned railroad or railroad
16 right-of-way, or public utility right-of-way, other than for the
17 purpose of crossing at a clearly established site intended for
18 vehicular traffic, except railroad, public utility, or law
19 enforcement personnel while in performance of their duties, and
20 except if the right-of-way is designated as provided for in section
21 81127.

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

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

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

1 (r) In a manner contrary to operating regulations on public
2 lands.

3 (s) While transporting or possessing, in or on the vehicle,
4 alcoholic liquor in a container that is open or uncapped or upon
5 which the seal is broken, except under either of the following
6 circumstances:

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

9 (ii) If the vehicle does not have a trunk or compartment
10 separate from the passenger compartment, the container is encased
11 or enclosed.

12 (t) While transporting any passenger in or upon an ORV unless
13 the manufacturing standards for the vehicle make provisions for
14 transporting passengers.

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