

SENATE BILL No. 69

January 24, 2013, Introduced by Senator HANSEN 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 81133 (MCL 324.81133), as amended by 2012 PA
340.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 81133. An individual shall not operate an ORV:

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

5 (b) Unless the individual and any passenger in or on the
6 vehicle is wearing on his or her head a crash helmet and protective
7 eyewear approved by the United States department of transportation.
8 This subdivision does not apply to either of the following:

9 (i) The operator of or a passenger in a vehicle that is
10 equipped with a roof that meets or exceeds standards for a crash

1 helmet if the operator and each passenger is wearing a properly
2 adjusted and fastened safety belt.

3 (ii) The operator of or a passenger in an ORV that is operated
4 on a state licensed game bird hunting preserve at a speed of not
5 greater than 10 miles per hour.

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

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

19 (e) In a state game area or state park or recreation area,
20 except on roads, trails, or areas designated for this purpose; on
21 state owned lands under the control of the department other than
22 game areas, state parks, or recreational areas where the operation
23 would be in violation of rules promulgated by the department; in a
24 forest nursery or planting area; on public lands posted or
25 reasonably identifiable as an area of forest reproduction, and when
26 growing stock may be damaged; in a dedicated natural area of the
27 department; or in any area in such a manner as to create an erosive

1 condition, or to injure, damage, or destroy trees or growing crops.
2 However, the department may permit an owner and guests of the owner
3 to use an ORV within the boundaries of a state forest in order to
4 access the owner's property.

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

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

1 established by the United States environmental protection agency
2 under the noise control act of 1972, 42 USC 4901 to 4918.

3 (h) Within 100 feet of a dwelling at a speed greater than the
4 minimum required to maintain controlled forward movement of the
5 vehicle, except on property owned or under the operator's control
6 or on which the operator is an invited guest, or on a roadway,
7 forest road, or forest trail maintained by or under the
8 jurisdiction of the department, or on a road or street on which ORV
9 use is authorized under section 81131(2), (3), or (5).

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

23 (j) In an area on which public hunting is permitted during the
24 regular November firearm deer season from 7 a.m. to 11 a.m. and
25 from 2 p.m. to 5 p.m., except during an emergency or for law
26 enforcement purposes, to go to and from a permanent residence or a
27 hunting camp otherwise inaccessible by a conventional wheeled

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

23 (k) Except as otherwise provided in section 40111(3) or (4),
24 while transporting on the vehicle a bow unless unstrung or encased,
25 or a firearm unless unloaded and securely encased, or equipped with
26 and made inoperative by a manufactured keylocked trigger housing
27 mechanism.

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

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

6 (n) On an operating or nonabandoned railroad or railroad
7 right-of-way, or public utility right-of-way, other than for the
8 purpose of crossing at a clearly established site intended for
9 vehicular traffic, except railroad, public utility, or law
10 enforcement personnel while in performance of their duties, and
11 except if the right-of-way is designated as provided for in section
12 81127.

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

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

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

19 (r) In a manner contrary to operating regulations on public
20 lands.

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

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

27 (ii) If the vehicle does not have a trunk or compartment

1 separate from the passenger compartment, the container is encased
2 or enclosed.

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

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

12 (V) OCCUPIED BY MORE THAN 2 INDIVIDUALS WHILE TRANSPORTING THE
13 INDIVIDUALS UPON THE FROZEN SURFACE OF PUBLIC WATERS BETWEEN THE
14 SHORE AND A FISHING SHANTY OR SHELTER.