

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5275**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 72101, 72115, 81127, and 81133 (MCL 324.72101,
324.72115, 324.81127, and 324.81133), section 72101 as amended by
2014 PA 211, section 72115 as amended by 2014 PA 213, section 81127
as amended by 1998 PA 86, and section 81133 as amended by 2014 PA
147, and by adding section 72118; and to repeal acts and parts of
acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 72101. As used in this part:
- 2 (a) "Advisory council" means the Michigan trails advisory
- 3 council created in section 72110.
- 4 (b) "Council" means a trail management council established

1 pursuant to section 72106.

2 (c) "Department" means the department of natural resources.

3 (d) "Director" means the director of the department or his or
4 her designee.

5 (e) "Equine access locations" means open access roads,
6 management roads, forestry access roads, 2-track and single-track
7 trails that are not wildlife paths, staging areas for pack and
8 saddle animals to be dropped off or picked up, and associated
9 wilderness campsites.

10 **(F) "FOREST ROAD" MEANS THAT TERM AS DEFINED IN SECTION 81101.**

11 **(G)** ~~(f)~~ "Fund" means the Pure Michigan Trails fund created in
12 section 72109.

13 **(H)** ~~(g)~~ "Governmental agency" means the federal government, a
14 county, city, village, or township, or a combination of any of
15 these entities.

16 **(I)** ~~(h)~~ "Pack and saddle trails" means trails and equine
17 access locations that may be used by pack and saddle animals.

18 **(J)** ~~(i)~~ "Pure Michigan Trail" means a trail designated as a
19 "Pure Michigan Trail" under section 72103.

20 **(K)** ~~(j)~~ "Pure Michigan Water Trail" means a water trail
21 designated as a "Pure Michigan Water Trail" under section 72103.

22 **(L)** ~~(k)~~ "Pure Michigan Trail Town" means a "Pure Michigan
23 Trail Town" designated under section 72104.

24 **(M)** ~~(l)~~ "Rail-trail" means a former railroad bed that is in
25 public ownership and used as a trail.

26 **(N)** ~~(m)~~ "Statewide trail network" means the statewide trail
27 network established in section 72114.

1 (O) ~~(n)~~—"Trail" means a right-of-way adapted to foot,
2 horseback, motorized, or other nonmotorized travel. Trail also
3 includes a water trail.

4 (P) ~~(e)~~—"Water trail" means a designated route on a body of
5 water.

6 Sec. 72115. (1) Subject to subsections (2) and (3), pack and
7 saddle animals shall be allowed to access pack and saddle trails on
8 public land managed by the department as follows:

9 (a) Access on land of the state forest system is allowed
10 unless restricted by statute, deed restriction, land use order, or
11 other legal mechanism, in effect on April 2, 2010.

12 (b) Access on land of the state park system or state game area
13 system is prohibited unless authorized by land use order or other
14 legal mechanism in effect on April 2, 2010.

15 (c) Access on other land managed by the department is allowed
16 according to the specific authorization or restriction applicable
17 to the land.

18 (2) Access by pack and saddle animals may only be restricted
19 on lands described in subsection (1) after April 2, 2010 if
20 conditions are not suitable for pack and saddle animals because of
21 public safety concerns, necessary maintenance, or for reasons
22 related to the mission of the department. Restrictions related to
23 the mission of the department shall be supported, to the greatest
24 extent practicable, by a written science-based rationale that is
25 supported with documentation that is made available to the public.
26 Prior to determining that access by pack and saddle animals be
27 restricted, the department shall make every effort to resolve any

1 public safety or maintenance concerns. Subject to subsection (3),
2 the department shall not restrict pack and saddle animals from
3 lands described in subsection (1) unless all of the following
4 conditions are met:

5 (a) The department holds a public meeting on a proposal to
6 restrict access by pack and saddle animals on pack and saddle
7 trails to receive testimony from the general public. The department
8 shall invite the advisory council and the equine trails
9 subcommittee created in section 72110a to attend the meeting.

10 (b) The department, after considering testimony at the meeting
11 under subdivision (a), provides a specific rationale for its
12 determination to restrict access by pack and saddle animals.

13 (c) Any decision by the department to restrict access by pack
14 and saddle animals shall not take effect for a period of time set
15 by the department, but not less than 60 days. However, if the
16 director determines that a restriction must be imposed because of
17 user conflicts or due to an imminent threat to public health,
18 safety, welfare, or to natural resources or the environment, the
19 director may issue a temporary order restricting access by pack and
20 saddle animals for 30 days or until the threat or user conflict is
21 abated. A temporary order under this subdivision may be reissued if
22 the threat or user conflict persists.

23 (d) A written statement shall be posted at the trailhead in
24 which the restriction is imposed stating the cause and estimated
25 duration of the closure.

26 (e) A list of pack and saddle trails on which the department
27 has restricted access for pack and saddle animals, including

1 temporary orders, shall be posted on the department's website and
2 notification shall be provided to the equine trails subcommittee
3 created in section 72110a.

4 (3) Any restrictions described in subsection (1) on access by
5 pack and saddle animals that were in effect on April 2, 2010 shall
6 remain in effect until those restrictions are reviewed using the
7 process ~~outlined in~~ **UNDER** subsection (2).

8 (4) ~~A person~~ **AN INDIVIDUAL** shall not use pack and saddle
9 animals on state-owned land except on pack and saddle trails that
10 are open for access by pack and saddle animals. **HOWEVER, AN**
11 **INDIVIDUAL MAY USE A PACK AND SADDLE ANIMAL IN AN AREA IN WHICH**
12 **PUBLIC HUNTING IS PERMITTED TO RETRIEVE LEGALLY HARVESTED DEER,**
13 **BEAR, OR ELK USING THE MOST DIRECT ROUTE THAT DOES NOT ENTER A**
14 **STREAM, RIVER, OR WETLAND EXCEPT OVER A BRIDGE, CULVERT, OR SIMILAR**
15 **STRUCTURE.**

16 **SEC. 72118. (1) THE DEPARTMENT SHALL MAKE A COMPREHENSIVE**
17 **INVENTORY OF FOREST ROADS THAT ARE STATE ROADS. THE DEPARTMENT**
18 **SHALL DIVIDE THE STATE INTO 5 REGIONS AND COMPLETE THE INVENTORY IN**
19 **REGIONAL PHASES. THE UPPER PENINSULA SHALL BE A SEPARATE REGION OR**
20 **REGIONS. THE DEPARTMENT SHALL INVENTORY THE 2 MOST NORTHERLY**
21 **REGIONS IN THE LOWER PENINSULA BY DECEMBER 31, 2017. THE DEPARTMENT**
22 **SHALL INVENTORY THE REMAINING REGIONS BY DECEMBER 31, 2018. THE**
23 **INVENTORY SHALL MEET BOTH OF THE FOLLOWING REQUIREMENTS:**

24 (A) **IDENTIFY THE LOCATION, CONDITION, AND DEVELOPMENT LEVEL OF**
25 **THE FOREST ROADS.**

26 (B) **DETERMINE TYPES OF MOTORIZED AND NONMOTORIZED USE**
27 **CURRENTLY RESTRICTED ON EACH FOREST ROAD SEGMENT AND THE SEASONS**

1 DURING WHICH THOSE USES ARE CURRENTLY RESTRICTED.

2 (2) BEGINNING WHEN THE INVENTORY FOR A REGION IS COMPLETED OR
3 REQUIRED TO BE COMPLETED, WHICHEVER OCCURS FIRST, ALL OF THE
4 FOLLOWING APPLY:

5 (A) THE FOREST ROADS WITHIN THAT REGION SHALL BE OPEN TO
6 MOTORIZED USE BY THE PUBLIC UNLESS DESIGNATED OTHERWISE BY THE
7 DEPARTMENT PURSUANT TO SECTION 504(7). HOWEVER, BEGINNING ON THE
8 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION,
9 FOREST ROADS IN THE UPPER PENINSULA SHALL BE OPEN TO MOTORIZED USE
10 BY THE PUBLIC UNLESS DESIGNATED OTHERWISE PURSUANT TO SECTION
11 504(7).

12 (B) IF A TIMBER HARVEST IS PLANNED FOR A PARTICULAR AREA IN
13 THAT REGION, THE DEPARTMENT SHALL EVALUATE WHETHER THE TIMBER
14 HARVEST ACTIVITY OFFERS THE OPPORTUNITY TO CONNECT EXISTING FOREST
15 ROADS AND TRAILS IN THAT AREA.

16 (C) THE DEPARTMENT SHALL NOT NEWLY RESTRICT A ROAD OR TRAIL IN
17 THAT REGION FROM BEING USED TO ACCESS PUBLIC LAND UNLESS THE
18 DEPARTMENT HAS PROVIDED EACH LOCAL UNIT OF GOVERNMENT IN WHICH THE
19 PUBLIC LAND IS LOCATED WRITTEN NOTICE THAT INCLUDES THE REASON FOR
20 THE RESTRICTION. THIS SUBDIVISION DOES NOT APPLY TO A RESTRICTION
21 IMPOSED TO PROTECT PUBLIC HEALTH OR SAFETY IN AN EMERGENCY
22 SITUATION.

23 (3) THE DEPARTMENT SHALL ANNUALLY POST TO ITS WEBSITE THE
24 TOTAL MILES OF FOREST ROADS OPEN TO MOTORIZED USE IN ALL
25 INVENTORIED REGIONS AND A MAP OR MAPS OF THOSE FOREST ROADS.

26 Sec. 81127. (1) Under the comprehensive system previously
27 approved and implemented under former section 16d of 1975 PA 319,

1 all **FOREST ROADS SHALL BE OPEN TO ORV USE AS PROVIDED IN SECTION**
 2 **72118. ALL OTHER** state owned land under the jurisdiction of the
 3 department shall be closed to ORV use except ~~designated routes,~~
 4 ~~designated trails, and designated areas.~~**THE FOLLOWING:**

5 (A) **DESIGNATED ROADS THAT ARE NOT FOREST ROADS.**

6 (B) **DESIGNATED TRAILS.**

7 (C) **DESIGNATED AREAS.**

8 (2) The commission shall approve any subsequent revisions to
 9 the system and shall establish an effective date for the revisions.

10 The department shall submit the revisions approved by the
 11 commission to the secretary of the senate and the clerk of the
 12 house of representatives at least 20 session days before the
 13 effective date determined by the commission. ~~If both standing~~
 14 ~~committees of the senate and the house of representatives that~~
 15 ~~primarily consider issues pertaining to the protection of natural~~
 16 ~~resources fail to reject the revisions within those 20 session~~
 17 ~~days, the revisions shall be considered approved.~~

18 (3) ~~(2)~~In developing the system, the department shall
 19 consider the needs of hunters, senior citizens, and ~~persons~~
 20 **INDIVIDUALS** with disabilities.

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

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

25 (b) During the hours of 1/2 hour after sunset to 1/2 hour
 26 before sunrise without displaying a lighted headlight and lighted
 27 taillight. The requirements of this subdivision are in addition to

1 any applicable requirements of section 81131(12).

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

11 (d) In a state game area or state park or recreation area,
12 except on roads, trails, or areas designated for this purpose,
13 **NOTWITHSTANDING SECTION 72118**; on other state-owned lands under the
14 control of the department where the operation would be in violation
15 of rules promulgated by the department; in a forest nursery or
16 planting area; on public lands posted or reasonably identifiable as
17 an area of forest reproduction, and when growing stock may be
18 damaged; in a dedicated natural area of the department; or in any
19 area in such a manner as to create an erosive condition, or to
20 injure, damage, or destroy trees or growing crops. However, the
21 department may permit an owner and guests of the owner to use an
22 ORV within the boundaries of a state forest in order to access the
23 owner's property.

24 (e) On the frozen surface of public waters within 100 feet of
25 an individual not in or upon a vehicle, or within 100 feet of a
26 fishing shanty or shelter or an area that is cleared of snow for
27 skating purposes, except at the minimum speed required to maintain

1 controlled forward movement of the vehicle, or as may be authorized
2 by permit in special events.

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

24 (g) Within 100 feet of a dwelling at a speed greater than the
25 minimum required to maintain controlled forward movement of the
26 vehicle, except under any of the following circumstances:

27 (i) On property owned by or under the operator's control or on

1 which the operator is an invited guest.

2 (ii) On a forest road or forest trail if the forest road or
3 forest trail is maintained by or under the jurisdiction of the
4 department.

5 (iii) On a street, county road, or highway on which ORV use is
6 authorized pursuant to section 81131(2), (3), (5), or (6).

7 (h) 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 caused by operation of the vehicle, including, but
11 not limited to, damage to trees, shrubs, or growing crops, injury
12 to other living creatures, or erosive or other ecological damage.
13 The owner of the private property may recover from the individual
14 responsible nominal damages of not less than the amount of damage
15 or injury. Failure to post private property or fence or otherwise
16 enclose in a manner to exclude intruders or of the private property
17 owner or other authorized person to personally communicate against
18 trespass does not imply consent to ORV use.

19 (i) In an area on which public hunting is permitted during the
20 regular November firearm deer season, from 7 a.m. to 11 a.m. and
21 from 2 p.m. to 5 p.m., except ~~during~~ **AS FOLLOWS:**

22 (i) **DURING** an emergency. ~~or for~~

23 (ii) **FOR** law enforcement purposes. ~~to~~

24 (iii) **TO** go to and from a permanent residence or a hunting
25 camp otherwise inaccessible by a conventional wheeled vehicle. ~~or~~
26 ~~to~~

27 (iv) **TO** remove **LEGALLY HARVESTED DEER, BEAR, OR ELK** from

1 public land. ~~a deer, elk, or bear that has been taken under a valid~~
2 ~~license; except to~~ **AN INDIVIDUAL SHALL OPERATE AN ORV UNDER THIS**
3 **SUBPARAGRAPH AT A SPEED NOT EXCEEDING 5 MILES PER HOUR, USING THE**
4 **MOST DIRECT ROUTE THAT COMPLIES WITH SUBDIVISION (N) .**

5 (v) TO conduct necessary work functions involving land and
6 timber survey, communication and transmission line patrol, or
7 timber harvest operations. ~~; or except on~~

8 (vi) ON property owned or under control of the operator or on
9 which the operator is an invited guest. ~~A hunter removing game~~
10 ~~under this subdivision may leave the designated trail or forest~~
11 ~~road only to retrieve the game and shall not exceed 5 miles per~~
12 ~~hour. A~~

13 (vii) WHILE OPERATING A vehicle registered under the code ~~is~~
14 ~~exempt from this subdivision while operating on~~ a private road
15 capable of sustaining automobile traffic or a street, county road,
16 or highway. ~~A person holding~~

17 (viii) IF THE INDIVIDUAL HOLDS a valid permit to hunt from a
18 standing vehicle issued under part 401 ~~, or~~ **IS** a person with a
19 disability using an ORV to access public lands for purposes of
20 hunting or fishing through use of a designated trail or forest
21 road. ~~, is exempt from this subdivision. An individual holding a~~
22 valid permit to hunt from a standing vehicle issued under part 401,
23 or a person with a disability using an ORV to access public lands
24 for purposes of hunting or fishing, may display a flag, the color
25 of which the department shall determine, to identify himself or
26 herself as a person with a disability or an individual holding a
27 permit to hunt from a standing vehicle under part 401.

1 (j) Except as otherwise provided in section 40111, while
2 transporting on the vehicle a bow unless unstrung or encased, or a
3 firearm unless unloaded and securely encased, or equipped with and
4 made inoperative by a manufactured keylocked trigger housing
5 mechanism.

6 (k) On or across a cemetery or burial ground, or land used as
7 an airport.

8 (l) Within 100 feet of a slide, ski, or skating area, unless
9 the vehicle is being used for the purpose of servicing the area or
10 is being operated pursuant to section 81131(2), (3), (5), or (6).

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

18 (n) In or upon the waters of any stream, river, bog, wetland,
19 swamp, marsh, or quagmire except over a bridge, culvert, or similar
20 structure.

21 (o) To hunt, pursue, worry, kill, or attempt to hunt, pursue,
22 worry, or kill an animal, whether wild or domesticated.

23 (p) In a manner so as to leave behind litter or other debris.

24 (q) On public land, in a manner contrary to operating
25 regulations.

26 (r) While transporting or possessing, in or on the vehicle,
27 alcoholic liquor in a container that is open or uncapped or upon

1 which the seal is broken, except under either of the following
2 circumstances:

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

5 (ii) If the vehicle does not have a trunk or compartment
6 separate from the passenger compartment, the container is encased
7 or enclosed.

8 (s) While transporting any passenger in or upon an ORV unless
9 the manufacturing standards for the vehicle make provisions for
10 transporting passengers.

11 (t) On adjacent private land, in an area zoned residential,
12 within 300 feet of a dwelling at a speed greater than the minimum
13 required to maintain controlled forward movement of the vehicle
14 except under any of the following circumstances:

15 (i) On a forest road or forest trail if the forest road or
16 forest trail is maintained by or under the jurisdiction of the
17 department.

18 (ii) On a street, county road, or highway on which ORV use is
19 authorized under section 81131(2), (3), (5), or (6).

20 (u) On a forest trail if the ORV is greater than 50 inches in
21 width.

22 (2) An individual who is operating or is a passenger on an ORV
23 shall wear a crash helmet and protective eyewear that are approved
24 by the United States ~~department of transportation.~~ **DEPARTMENT OF**
25 **TRANSPORTATION.** This subsection does not apply to any of the
26 following:

27 (a) An individual who owns the property on which the ORV is

1 operating, is a family member of the owner and resides at that
2 property, or is an invited guest of an individual who owns the
3 property. An exception under this subdivision does not apply to any
4 of the following:

5 (i) An individual less than 16 years of age.

6 (ii) An individual 16 or 17 years of age, unless the
7 individual has consent from his or her parent or guardian to ride
8 without a crash helmet.

9 (iii) An individual participating in an organized ORV riding
10 or racing event if an individual who owns the property receives
11 consideration for use of the property for operating ORVs.

12 (b) An individual wearing a properly adjusted and fastened
13 safety belt if the ORV is equipped with a roof that meets or
14 exceeds United States ~~department of transportation~~ **DEPARTMENT OF**
15 **TRANSPORTATION** standards for a crash helmet.

16 (c) An ORV operated on a state-licensed game bird hunting
17 preserve at a speed of not greater than 10 miles per hour.

18 (3) Each person who participates in the sport of ORV riding
19 accepts the risks associated with that sport insofar as the dangers
20 are inherent. Those risks include, but are not limited to, injuries
21 to persons or property that can result from variations in terrain;
22 defects in traffic lanes; surface or subsurface snow or ice
23 conditions; bare spots; rocks, trees, and other forms of natural
24 growth or debris; and collisions with fill material, decks,
25 bridges, signs, fences, trail maintenance equipment, or other ORVs.
26 Those risks do not include injuries to persons or property that
27 result from the use of an ORV by another person in a careless or

1 negligent manner likely to endanger person or property. When an ORV
2 is operated in the vicinity of a railroad right-of-way, each person
3 who participates in the sport of ORV riding additionally assumes
4 risks including, but not limited to, entanglement with railroad
5 tracks, switches, and ties and collisions with trains and train-
6 related equipment and facilities.

7 Enacting section 1. Section 81126 of the natural resources and
8 environmental protection act, 1994 PA 451, MCL 324.81126, is
9 repealed.