

SENATE BILL No. 839

March 2, 2016, Introduced by Senator SCHMIDT 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 72101, 72115, and 81133 (MCL 324.72101, 324.72115, and 324.81133), section 72101 as amended by 2014 PA 211, section 72115 as amended by 2014 PA 213, and section 81133 as amended by 2014 PA 147, and by adding section 72117; 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
5 pursuant to section 72106.

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

1 (d) "Director" means the director of the department or his or
2 her designee.

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

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

9 (G) ~~(f)~~—"Fund" means the Pure Michigan Trails fund created in
10 section 72109.

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

14 (I) ~~(h)~~—"Pack and saddle trails" means trails and equine
15 access locations that may be used by pack and saddle animals.

16 (J) ~~(i)~~—"Pure Michigan Trail" means a trail designated as a
17 "Pure Michigan Trail" under section 72103.

18 (K) ~~(j)~~—"Pure Michigan Water Trail" means a water trail
19 designated as a "Pure Michigan Water Trail" under section 72103.

20 (L) ~~(k)~~—"Pure Michigan Trail Town" means a "Pure Michigan
21 Trail Town" designated under section 72104.

22 (M) ~~(l)~~—"Rail-trail" means a former railroad bed that is in
23 public ownership and used as a trail.

24 (N) ~~(m)~~—"Statewide trail network" means the statewide trail
25 network established in section 72114.

26 (O) ~~(n)~~—"Trail" means a right-of-way adapted to foot,
27 horseback, motorized, or other nonmotorized travel. Trail also

1 includes a water trail.

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

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

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

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

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

16 (2) Access by pack and saddle animals may only be restricted
17 on lands described in subsection (1) after April 2, 2010 if
18 conditions are not suitable for pack and saddle animals because of
19 public safety concerns, necessary maintenance, or for reasons
20 related to the mission of the department. Restrictions related to
21 the mission of the department shall be supported, to the greatest
22 extent practicable, by a written science-based rationale that is
23 supported with documentation that is made available to the public.
24 Prior to determining that access by pack and saddle animals be
25 restricted, the department shall make every effort to resolve any
26 public safety or maintenance concerns. Subject to subsection (3),
27 the department shall not restrict pack and saddle animals from

1 lands described in subsection (1) unless all of the following
2 conditions are met:

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

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

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

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

24 (e) A list of pack and saddle trails on which the department
25 has restricted access for pack and saddle animals, including
26 temporary orders, shall be posted on the department's website and
27 notification shall be provided to the equine trails subcommittee

1 created in section 72110a.

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

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

14 **SEC. 72117. (1) BY DECEMBER 31, 2018, THE DEPARTMENT SHALL**
15 **COMPLETE A COMPREHENSIVE INVENTORY OF FOREST ROADS THAT ARE STATE**
16 **ROADS. THE INVENTORY SHALL MEET BOTH OF THE FOLLOWING REQUIREMENTS:**

17 (A) IDENTIFY THE LOCATION, CONDITION, AND DEVELOPMENT LEVEL OF
18 THE FOREST ROADS.

19 (B) DETERMINE TYPES OF MOTORIZED AND NONMOTORIZED USE
20 CURRENTLY RESTRICTED ON EACH FOREST ROAD SEGMENT AND THE SEASONS
21 DURING WHICH THOSE USES ARE CURRENTLY RESTRICTED.

22 (2) FOREST ROADS SHALL BE OPEN TO MOTORIZED USE BY THE PUBLIC
23 UNLESS DESIGNATED OTHERWISE BY THE DEPARTMENT PURSUANT TO SECTION
24 504(7). AFTER COMPLETION OF THE INVENTORY UNDER SUBSECTION (1), IF
25 A TIMBER HARVEST IS PLANNED FOR A PARTICULAR AREA, THE DEPARTMENT
26 SHALL EVALUATE WHETHER THE TIMBER HARVEST ACTIVITY OFFERS THE
27 OPPORTUNITY TO CONNECT EXISTING FOREST ROADS AND TRAILS IN THAT

1 AREA.

2 (3) THE DEPARTMENT SHALL ANNUALLY POST TO ITS WEBSITE THE
3 TOTAL MILES OF FOREST ROADS OPEN TO MOTORIZED USE AND A MAP OR MAPS
4 OF THOSE FOREST ROADS.

5 (4) BEFORE THE DEPARTMENT NEWLY RESTRICTS A ROAD OR TRAIL FROM
6 BEING USED TO ACCESS PUBLIC LAND, THE DEPARTMENT SHALL PROVIDE EACH
7 LOCAL UNIT OF GOVERNMENT IN WHICH THE PUBLIC LAND IS LOCATED
8 WRITTEN NOTICE THAT INCLUDES THE REASON FOR THE RESTRICTION.

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

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

13 (b) During the hours of 1/2 hour after sunset to 1/2 hour
14 before sunrise without displaying a lighted headlight and lighted
15 taillight. The requirements of this subdivision are in addition to
16 any applicable requirements of section 81131(12).

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

26 (d) In a state game area or state park or recreation area,
27 except on roads, trails, or areas designated for this purpose; on

1 other state-owned lands under the control of the department where
2 the operation would be in violation of rules promulgated by the
3 department; in a forest nursery or planting area; on public lands
4 posted or reasonably identifiable as an area of forest
5 reproduction, and when growing stock may be damaged; in a dedicated
6 natural area of the department; or in any area in such a manner as
7 to create an erosive condition, or to injure, damage, or destroy
8 trees or growing crops. However, the department may permit an owner
9 and guests of the owner to use an ORV within the boundaries of a
10 state forest in order to access the owner's property.

11 (e) On the frozen surface of public waters within 100 feet of
12 an individual not in or upon a vehicle, or within 100 feet of a
13 fishing shanty or shelter or an area that is cleared of snow for
14 skating purposes, except at the minimum speed required to maintain
15 controlled forward movement of the vehicle, or as may be authorized
16 by permit in special events.

17 (f) Unless the vehicle is equipped with a spark arrester type
18 United States ~~forest service~~**FOREST SERVICE** approved muffler, in
19 good working order and in constant operation. Exhaust noise
20 emission shall not exceed 86 Db(A) or 82 Db(A) on a vehicle
21 manufactured after January 1, 1986, when the vehicle is under full
22 throttle, traveling in second gear, and measured 50 feet at right
23 angles from the vehicle path with a sound level meter that meets
24 the requirement of ANSI S1.4 1983, using procedure and ancillary
25 equipment therein described; or 99 Db(A) or 94 Db(A) on a vehicle
26 manufactured after January 1, 1986, or that level comparable to the
27 current sound level as provided for by the United States

1 ~~environmental protection agency~~ **ENVIRONMENTAL PROTECTION AGENCY**
2 when tested according to the provisions of the current SAE J1287,
3 June 86 test procedure for exhaust levels of stationary
4 motorcycles, using sound level meters and ancillary equipment
5 therein described. A vehicle subject to this part, manufactured or
6 assembled after December 31, 1972 and used, sold, or offered for
7 sale in this state, shall conform to the noise emission levels
8 established by the United States ~~environmental protection agency~~
9 **ENVIRONMENTAL PROTECTION AGENCY** under the noise control act of
10 1972, 42 USC 4901 to 4918.

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

14 (i) On property owned by or under the operator's control or on
15 which the operator is an invited guest.

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

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

21 (h) In or upon the lands of another without the written
22 consent of the owner, the owner's agent, or a lessee, when required
23 by part 731. The operator of the vehicle is liable for damage to
24 private property caused by operation of the vehicle, including, but
25 not limited to, damage to trees, shrubs, or growing crops, injury
26 to other living creatures, or erosive or other ecological damage.
27 The owner of the private property may recover from the individual

1 responsible nominal damages of not less than the amount of damage
 2 or injury. Failure to post private property or fence or otherwise
 3 enclose in a manner to exclude intruders or of the private property
 4 owner or other authorized person to personally communicate against
 5 trespass does not imply consent to ORV use.

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

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

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

11 (iii) **TO** go to and from a permanent residence or a hunting
 12 camp otherwise inaccessible by a conventional wheeled vehicle. ~~or~~
 13 ~~to~~

14 (iv) **TO** remove **LEGALLY HARVESTED LARGE GAME** from public land.
 15 ~~a deer, elk, or bear that has been taken under a valid license,~~
 16 ~~except to~~ **AN INDIVIDUAL SHALL OPERATE AN ORV UNDER THIS**
 17 **SUBPARAGRAPH AT A SPEED NOT EXCEEDING 5 MILES PER HOUR, USING THE**
 18 **MOST DIRECT ROUTE THAT COMPLIES WITH SUBDIVISION (N).**

19 (v) **TO** conduct necessary work functions involving land and
 20 timber survey, communication and transmission line patrol, or
 21 timber harvest operations. ~~or except on~~

22 (vi) **ON** property owned or under control of the operator or on
 23 which the operator is an invited guest. ~~A hunter removing game~~
 24 ~~under this subdivision may leave the designated trail or forest~~
 25 ~~road only to retrieve the game and shall not exceed 5 miles per~~
 26 ~~hour. A~~

27 (vii) **WHILE OPERATING A** vehicle registered under the code ~~is~~

1 ~~exempt from this subdivision while operating~~ on a private road
2 capable of sustaining automobile traffic or a street, county road,
3 or highway. ~~A person holding~~

4 **(viii) IF THE INDIVIDUAL HOLDS** a valid permit to hunt from a
5 standing vehicle issued under part 401 ~~—or~~ **IS** a person with a
6 disability using an ORV to access public lands for purposes of
7 hunting or fishing through use of a designated trail or forest
8 road. ~~—is exempt from this subdivision.~~ An individual holding a
9 valid permit to hunt from a standing vehicle issued under part 401,
10 or a person with a disability using an ORV to access public lands
11 for purposes of hunting or fishing, may display a flag, the color
12 of which the department shall determine, to identify himself or
13 herself as a person with a disability or an individual holding a
14 permit to hunt from a standing vehicle under part 401.

15 (j) Except as otherwise provided in section 40111, while
16 transporting on the vehicle a bow unless unstrung or encased, or a
17 firearm unless unloaded and securely encased, or equipped with and
18 made inoperative by a manufactured keylocked trigger housing
19 mechanism.

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

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

25 (m) On an operating or nonabandoned railroad or railroad
26 right-of-way, or public utility right-of-way, other than for the
27 purpose of crossing at a clearly established site intended for

1 vehicular traffic, except railroad, public utility, or law
2 enforcement personnel while in performance of their duties, and
3 except if the right-of-way is designated as provided for in section
4 81127.

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

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

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

11 (q) On public land, in a manner contrary to operating
12 regulations.

13 (r) While transporting or possessing, in or on the vehicle,
14 alcoholic liquor in a container that is open or uncapped or upon
15 which the seal is broken, except under either of the following
16 circumstances:

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

19 (ii) If the vehicle does not have a trunk or compartment
20 separate from the passenger compartment, the container is encased
21 or enclosed.

22 (s) While transporting any passenger in or upon an ORV unless
23 the manufacturing standards for the vehicle make provisions for
24 transporting passengers.

25 (t) On adjacent private land, in an area zoned residential,
26 within 300 feet of a dwelling at a speed greater than the minimum
27 required to maintain controlled forward movement of the vehicle

1 except under any of the following circumstances:

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

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

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

14 (a) An individual who owns the property on which the ORV is
15 operating, is a family member of the owner and resides at that
16 property, or is an invited guest of an individual who owns the
17 property. An exception under this subdivision does not apply to any
18 of the following:

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

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

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

26 (b) An individual wearing a properly adjusted and fastened
27 safety belt if the ORV is equipped with a roof that meets or

1 exceeds United States ~~department of transportation~~ **DEPARTMENT OF**
2 **TRANSPORTATION** standards for a crash helmet.

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

5 (3) Each person who participates in the sport of ORV riding
6 accepts the risks associated with that sport insofar as the dangers
7 are inherent. Those risks include, but are not limited to, injuries
8 to persons or property that can result from variations in terrain;
9 defects in traffic lanes; surface or subsurface snow or ice
10 conditions; bare spots; rocks, trees, and other forms of natural
11 growth or debris; and collisions with fill material, decks,
12 bridges, signs, fences, trail maintenance equipment, or other ORVs.
13 Those risks do not include injuries to persons or property that
14 result from the use of an ORV by another person in a careless or
15 negligent manner likely to endanger person or property. When an ORV
16 is operated in the vicinity of a railroad right-of-way, each person
17 who participates in the sport of ORV riding additionally assumes
18 risks including, but not limited to, entanglement with railroad
19 tracks, switches, and ties and collisions with trains and train-
20 related equipment and facilities.

21 Enacting section 1. Section 81126 of the natural resources and
22 environmental protection act, 1994 PA 451, MCL 324.81126, is
23 repealed.

24 Enacting section 2. This amendatory act takes effect April 1,
25 2016.