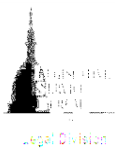


HOUSE BILL NO. 5856

June 11, 2020, Introduced by Reps. Steven Johnson, Yancey, Lasinski, Tyrone Carter, Hope, Whitsett, Hood, Sneller, Sabo, Warren, Sowerby, Cambensy, Clemente, Cherry, Manoogian, Kupp, Stone, Hoadley, Brann, Guerra, Gay-Dagnogo, O'Malley, Kahle, Wozniak, Brixie, Meerman, Peterson, Bolden, Ellison, Wittenberg, Hammoud, Kennedy and Cynthia Johnson and referred to the Committee on Judiciary.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 40118, 41105, 47327, 48738, 80177, 80178b,
81134, 82128, and 82129b (MCL 324.40118, 324.41105, 324.47327,
324.48738, 324.80177, 324.80178b, 324.81134, 324.82128, and
324.82129b), section 40118 as amended by 2017 PA 124, sections
41105 and 47327 as added by 1995 PA 57, section 48738 as amended by
2014 PA 541, section 80177 as amended and section 80178b as added



by 2014 PA 402, section 81134 as amended by 2014 PA 405, and section 82128 as amended and section 82129b as added by 2014 PA 404.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 40118. (1) An individual who violates this part, an order
2 or interim order issued under this part, or a condition of a permit
3 issued under this part, except for a violation specified in
4 subsections (2) to (18), is guilty of a misdemeanor punishable by
5 imprisonment for not more than 90 days ~~—~~or a fine of not less than
6 \$50.00 or more than \$500.00, or both, and the costs of prosecution.
7 In addition, a permit issued by the department under this part must
8 be revoked pursuant to the administrative procedures act of 1969,
9 1969 PA 306, MCL 24.201 to 24.328.

10 (2) An individual who violates a provision of this part or an
11 order or interim order issued under this part regarding the
12 possession or taking of any game, except deer, bear, wild turkey,
13 wolf, waterfowl, moose, or elk, is guilty of a misdemeanor
14 punishable by imprisonment for not more than 90 days ~~—~~or a fine of
15 not less than \$100.00 or more than \$1,000.00, or both, and the
16 costs of prosecution.

17 (3) Except as otherwise provided in this subsection, an
18 individual who violates a provision of this part or an order or
19 interim order issued under this part regarding the possession or
20 taking of deer, bear, wild turkey, or wolf is guilty of a
21 misdemeanor and ~~shall be punished by imprisonment~~ **may be imprisoned**
22 ~~for not less than 5 days or more than 90 days, and a fine of~~ **shall**
23 **be fined** not less than \$200.00 or more than \$1,000.00, and **shall be**
24 **ordered to pay** the costs of prosecution. An individual shall not be
25 punished under this subsection for lawfully removing, capturing, or



1 destroying a wolf under 2008 PA 290, MCL 324.95151 to 324.95155, or
2 2008 PA 318, MCL 324.95161 to 324.95167.

3 (4) An individual who violates a provision of this part or an
4 order or interim order issued under this part regarding the
5 possession or taking of elk is guilty of a misdemeanor punishable
6 by imprisonment for not ~~less than 30 days or more than 180 days~~ ⁷
7 or a fine of not less than \$500.00 or more than \$2,000.00, or both,
8 and the costs of prosecution.

9 (5) An individual who violates a provision of this part or an
10 order or interim order issued under this part regarding the
11 possession or taking of moose is guilty of a misdemeanor punishable
12 by imprisonment for not ~~less than 90 days or more than 1 year~~ and a
13 fine of not less than \$1,000.00 or more than \$5,000.00, and the
14 costs of prosecution.

15 (6) An individual who violates a provision of this part or an
16 order or interim order issued under this part regarding the
17 possession or taking of waterfowl is guilty of a misdemeanor
18 punishable by imprisonment for not more than 90 days or a fine of
19 not less than \$250.00 or more than \$500.00, or both, and the costs
20 of prosecution. An individual who violates a provision of this part
21 or an order or interim order issued under this part regarding the
22 possession or taking of waterfowl a second or subsequent time is
23 guilty of a misdemeanor punishable by imprisonment for not more
24 than 90 days or a fine of \$500.00, or both, and the costs of
25 prosecution.

26 (7) An individual sentenced under subsection (3), (14), or
27 (15) shall not secure or possess a license of any kind to hunt
28 during the remainder of the year in which convicted and the next 3
29 succeeding calendar years. An individual sentenced under subsection



1 (11) shall not secure or possess a license to hunt during the
2 remainder of the year in which convicted and the next succeeding
3 calendar year, or longer in the discretion of the court.

4 (8) In addition to the penalties provided for violating this
5 part or an order issued under this part, an individual convicted of
6 the illegal killing, possessing, purchasing, or selling of a bear
7 or an antlered white-tailed deer is subject to the following
8 penalties:

9 (a) For a first offense, the individual shall not secure or
10 possess a license of any kind to hunt for an additional 2 calendar
11 years after the penalties imposed under subsection (7).

12 (b) For a second or subsequent offense, the individual shall
13 not secure or possess a license of any kind to hunt for an
14 additional 7 calendar years after the penalties imposed under
15 subsection (7).

16 (9) In addition to the penalties provided for violating this
17 part or an order issued under this part, an individual convicted of
18 the illegal killing, possessing, purchasing, or selling of a wild
19 turkey shall not secure or possess a license of any kind to hunt
20 for an additional 2 calendar years after the penalties imposed
21 under subsection (7).

22 (10) An individual sentenced under subsection (4) or (5) is
23 subject to the following penalties:

24 (a) For a first offense, the individual shall not secure or
25 possess a license of any kind to hunt for the remainder of the year
26 in which convicted and the next 15 succeeding calendar years.

27 (b) For a second offense, the individual shall not secure or
28 possess a license of any kind to hunt for the remainder of that
29 individual's life.



1 (11) An individual who violates section 40113(1) is guilty of
2 a misdemeanor punishable by imprisonment for not ~~less than 5 days~~
3 ~~or~~ more than 90 days ~~—~~or a fine of not less than \$100.00 or more
4 than \$500.00, or both, and the costs of prosecution.

5 (12) An individual who violates section 40113(2) is guilty of
6 a misdemeanor punishable by imprisonment for not more than 90 days
7 ~~—~~or a fine of not less than \$50.00 or more than \$500.00, or both,
8 and the costs of prosecution.

9 (13) An individual who violates section 40113(3) is guilty of
10 a misdemeanor punishable by imprisonment for not ~~less than 5 days~~
11 ~~or~~ more than 90 days ~~and or~~ a fine of not less than \$100.00 or more
12 than \$500.00, **or both**, and the costs of prosecution.

13 (14) An individual who violates a provision of this part or an
14 order or interim order issued under this part regarding the taking
15 or possession of an animal that has been designated by the
16 department to be a protected animal, other than an animal that
17 appears on a list prepared under section 36505, is guilty of a
18 misdemeanor punishable by imprisonment for not more than 90 days or
19 a fine of not less than \$100.00 or more than \$1,000.00, or both,
20 and the costs of prosecution.

21 (15) An individual who buys or sells game or a protected
22 animal in violation of this part or an order or interim order
23 issued under this part is guilty of a misdemeanor punishable by
24 imprisonment for not more than 90 days or a fine of not more than
25 \$1,000.00, or both, for the first offense, and is guilty of a
26 felony for each subsequent offense.

27 (16) An individual who willfully violates a provision of this
28 part or an order or interim order issued under this part by using
29 an illegally constructed snare or cable restraint is guilty of a



1 misdemeanor punishable by imprisonment for not more than 90 days ~~7~~
 2 or a fine of \$1,000.00 for the first illegally constructed snare or
 3 cable restraint and \$250.00 for each subsequent illegally
 4 constructed snare or cable restraint, or both, and the costs of
 5 prosecution.

6 (17) An individual who violates a provision of this part or an
 7 order or interim order issued under this part regarding the
 8 importation of a cervid carcass or parts of a cervid carcass, other
 9 than hides, deboned meat, quarters or other parts of a cervid that
 10 do not have any part of the spinal column or head attached,
 11 finished taxidermy products, cleaned teeth, antlers, or antlers
 12 attached to a skullcap cleaned of brain and muscle tissue, from
 13 another state or province is guilty of a misdemeanor punishable by
 14 imprisonment for not more than 90 days or a fine of not less than
 15 \$500.00 or more than \$2,000.00, or both, and the costs of
 16 prosecution.

17 (18) If an individual is convicted of a violation of this part
 18 or an order or interim order issued under this part and it is
 19 alleged in the complaint and proved or admitted at trial or
 20 ascertained by the court after conviction that the individual had
 21 been previously convicted 2 times within the preceding 5 years for
 22 a violation of this part or an order or interim order issued under
 23 this part, the individual is guilty of a misdemeanor punishable by
 24 imprisonment for not ~~less than 10 days or~~ more than 180 days ~~7~~ and
 25 ~~or~~ a fine of not less than \$500.00 or more than \$2,000.00, ~~and or~~
 26 **both, and the** costs of prosecution.

27 Sec. 41105. A person who takes or kills any fish, game, ~~or~~
 28 fur-bearing animal, or game bird, contrary to an order **issued** or
 29 rule promulgated under this part, or who violates this part, is



1 guilty of a misdemeanor, punishable for the first offense by
 2 imprisonment for not more than 60 days or a fine of not more than
 3 \$100.00. For each offense that is charged as a second or subsequent
 4 offense, the person is guilty of a misdemeanor, punishable by
 5 imprisonment for not ~~less than 20 days or~~ more than 90 days ~~,~~ or a
 6 fine of not less than \$50.00 or more than \$250.00.

7 Sec. 47327. ~~Any~~ **A** person who violates sections 47301 to 47325,
 8 ~~upon conviction for the first offense, shall be punished by~~
 9 ~~imprisonment~~ **is guilty of a misdemeanor punishable by imprisonment**
 10 for not more than 30 days ~~,~~ or a fine of not less than \$25.00 or
 11 more than \$100.00, **or both**, and **the** costs of prosecution. ~~,~~ ~~or~~
 12 ~~both.~~ For the second or a subsequent offense, **if** charged as a
 13 second or subsequent offense in the complaint, the person ~~shall be~~
 14 ~~punished by imprisonment~~ **is guilty of a misdemeanor punishable by**
 15 **imprisonment** for not ~~less than 30 days or~~ more than 90 days ~~,~~ or a
 16 fine of not less than \$50.00 or more than \$100.00, **or both**, and **the**
 17 costs of prosecution. ~~,~~ ~~or both.~~ ~~If a fine with costs is imposed~~
 18 ~~under this part, the court shall sentence the offender to be~~
 19 ~~confined in the county jail until the fine and costs are paid, but~~
 20 ~~for a period not exceeding the maximum penalty for the offense.~~

21 Sec. 48738. (1) A person who violates this part or rules or
 22 orders issued to implement this part, if a penalty is not otherwise
 23 provided for that violation in this section, is guilty of a
 24 misdemeanor punishable by imprisonment for not more than 90 days or
 25 a fine of not more than \$500.00, or both.

26 (2) A person ~~convicted of using~~ **who uses** dynamite,
 27 nitroglycerin, any other explosive substance, lime, electricity, or
 28 poison for the purpose of taking or killing fish, ~~convicted of~~
 29 ~~using~~ **who uses** nets not authorized by law for taking game fish, or



1 ~~convicted of buying or selling~~ **who buys or sells** game fish or any
2 ~~parts~~ **part** of game fish is guilty of a misdemeanor punishable by
3 imprisonment for not more than 90 days or a fine of not less than
4 \$250.00 or more than \$1,000.00, or both.

5 (3) A person who takes or possesses sturgeon in violation of
6 this part or rules or orders issued to implement this part is
7 guilty of a misdemeanor ~~and shall be punished~~ **punishable** by
8 imprisonment for not ~~less than 30 days or more than 180 days and or~~
9 a fine of not less than \$500.00 or more than \$2,000.00, or both,
10 and the costs of prosecution.

11 (4) A person who knowingly violates section 48735(2) or (4),
12 or a **rule or** permit issued under section 48735(2) or (4), with
13 respect to a genetically engineered variant of a fish species is
14 guilty of a felony punishable by imprisonment for not more than 5
15 years or a fine of not more than \$250,000.00, or both. In addition,
16 the person is liable for any damages to the natural resources
17 resulting from the violation, including, but not limited to, costs
18 incurred to prevent or minimize ~~such~~ **the** damages.

19 (5) If a person is convicted of a violation of this part or
20 ~~rules or orders issued to implement~~ **a rule promulgated or order**
21 **issued under** this part and it is alleged in the complaint and
22 proved or admitted at trial or ascertained by the court at the time
23 of sentencing that the person has been previously convicted 3 or
24 more times of a violation of this part within the 5 years
25 immediately preceding the last violation of this part, the person
26 is guilty of a misdemeanor punishable by imprisonment for not more
27 than 90 days or a fine of not more than \$1,000.00, or both, and the
28 costs of prosecution. This subsection does not apply to the
29 following violations:



1 (a) Failing to possess or display a valid fishing license
2 issued ~~pursuant to~~ **under** part 435.

3 (b) Taking or possessing an overlimit of bluegill, sunfish,
4 crappie, perch, or nongame fish.

5 (c) Taking or possessing not more than 5 undersized fish.

6 (d) Fishing with too many lines.

7 (e) Failing to attach the person's name and address to tip-ups
8 or minnow traps.

9 (f) Fishing with lines not under immediate control.

10 (6) In addition to the penalties provided in this section, a
11 fishing license issued to a person sentenced ~~pursuant to~~ **under**
12 subsection (2), (3), (4), or (5) shall be revoked, and the person
13 shall not be issued a license during the remainder of the year in
14 which convicted or during the next 3 succeeding license years.

15 (7) Subject to subsection (8), if any permit or license under
16 this part is ordered to be suspended or revoked under section 41309
17 and if the department maintains a database of suspensions or
18 revocations of permits or licenses under this part, the department
19 shall not issue a permit or license under this part to the person
20 for the period provided in the order.

21 (8) If a permit or license under this part is ordered to be
22 suspended under section 41309, the suspension remains in effect
23 until ~~all~~ **both** of the following occur:

24 (a) The suspension period set forth in the court order has
25 elapsed.

26 (b) The person pays the department a reinstatement fee of
27 \$125.00.

28 (9) Unless a person's permit or license is otherwise
29 suspended, revoked, or denied, the permit or license is immediately



1 reinstated on satisfaction of the requirements of subsection (8).

2 Sec. 80177. (1) If a person is convicted of violating section
3 80176(1), the following apply:

4 (a) Except as otherwise provided in subdivisions (b) and (c),
5 the person is guilty of a misdemeanor and shall be punished by 1 or
6 more of the following:

7 (i) Community service for not more than 45 days.

8 (ii) Imprisonment for not more than 93 days.

9 (iii) A fine of not less than \$100.00 or more than \$500.00.

10 (b) If the violation occurs within 7 years of a prior
11 conviction, the person shall be sentenced to ~~both~~ a fine of not
12 less than \$200.00 or more than \$1,000.00 and either of the
13 following:

14 (i) Community service for not less than 10 days or more than 90
15 days, and may be imprisoned for not more than 1 year.

16 (ii) Imprisonment for not ~~less than 48 consecutive hours or~~
17 more than 1 year, and may be sentenced to community service for not
18 more than 90 days.

19 (c) If the violation occurs after 2 or more prior convictions
20 regardless of the number of years that have elapsed since any prior
21 conviction, the person is guilty of a felony and shall be sentenced
22 to imprisonment for not less than 1 year or more than 5 years ~~or~~
23 a fine of not less than \$500.00 or more than \$5,000.00, or both.

24 (2) ~~A term of imprisonment imposed under subsection (1) (b) (ii)~~
25 ~~shall not be suspended.~~ A person sentenced to perform service to
26 the community under this section shall not receive compensation and
27 shall reimburse the state or appropriate local unit of government
28 for the cost of supervision incurred by the state or local unit of
29 government as a result of the person's activities in that service.



1 (3) In addition to the sanctions prescribed under subsection
 2 (1) and section 80176(4) and (5), the court may, under **chapter IX**
 3 **of** the code of criminal procedure, 1927 PA 175, MCL ~~760.1 to~~
 4 ~~777.69, 769.1 to 769.36~~, order the person to pay the costs of the
 5 prosecution. The court shall also impose sanctions under sections
 6 80185 and 80186.

7 (4) A person who is convicted of violating section 80176(2) is
 8 guilty of a misdemeanor, punishable by imprisonment for not more
 9 than 93 days ~~, or a fine of not less than \$100.00 or more than~~
 10 \$500.00, or both.

11 Sec. 80178b. (1) A person who violates section 80176(7) (a) is
 12 guilty of a crime punishable as follows:

13 (a) Except as provided in subdivision (b), a person who
 14 violates section 80176(7) (a) is guilty of a misdemeanor and shall
 15 be sentenced to pay a fine of not less than \$200.00 or more than
 16 \$1,000.00 and to 1 or more of the following:

17 (i) Imprisonment for not ~~less than 5 days or more than 1 year.~~
 18 ~~Not less than 48 hours of this imprisonment shall be served~~
 19 ~~consecutively. This term of imprisonment shall not be suspended.~~

20 (ii) Community service for not less than 30 days or more than
 21 90 days.

22 (b) If the violation occurs within 7 years of a prior
 23 conviction or after 2 or more prior convictions, regardless of the
 24 number of years that have elapsed since any prior conviction, a
 25 person who violates section 80176(7) (a) is guilty of a felony and
 26 shall be sentenced to pay a fine of not less than \$500.00 or more
 27 than \$5,000.00 and to either of the following:

28 (i) Imprisonment under the jurisdiction of the department of
 29 corrections for not less than 1 year or more than 5 years.



1 (ii) Probation with imprisonment in the county jail for not
 2 less than 30 days or more than 1 year and community service for not
 3 less than 60 days or more than 180 days. Not less than 48 hours of
 4 this imprisonment shall be served consecutively. This term of
 5 imprisonment shall not be suspended.

6 (2) A person who violates section 80176(7)(b) is guilty of a
 7 misdemeanor punishable as follows:

8 (a) Except as provided in subdivision (b), a person who
 9 violates section 80176(7)(b) may be sentenced to 1 or more of the
 10 following:

11 (i) Community service for not more than 60 days.

12 (ii) A fine of not more than \$500.00.

13 (iii) Imprisonment for not more than 93 days.

14 (b) If the violation occurs within 7 years of a prior
 15 conviction or after 2 or more prior convictions, regardless of the
 16 number of years that have elapsed since any prior conviction, a
 17 person who violates section 80176(7)(b) shall be sentenced to pay a
 18 fine of not less than \$200.00 or more than \$1,000.00 and to 1 or
 19 more of the following:

20 (i) Imprisonment for not ~~less than 5 days or more than 1 year.~~
 21 ~~Not less than 48 hours of this imprisonment shall be served~~
 22 ~~consecutively. This term of imprisonment shall not be suspended.~~

23 (ii) Community service for not less than 30 days or more than
 24 90 days.

25 (3) In addition to imposing the sanctions prescribed under
 26 this section, the court may order the person to pay the costs of
 27 the prosecution under **chapter IX of** the code of criminal procedure,
 28 1927 PA 175, MCL ~~760.1 to 777.69.~~ **769.1 to 769.36.**

29 (4) A person sentenced to perform community service under this



1 section shall not receive compensation and shall reimburse the
2 state or appropriate local unit of government for the cost of
3 supervision incurred by the state or local unit of government as a
4 result of the person's activities in that service.

5 Sec. 81134. (1) A person shall not operate an ORV if any of
6 the following apply:

7 (a) The person is under the influence of alcoholic liquor or a
8 controlled substance, as defined by section 7104 of the public
9 health code, 1978 PA 368, MCL 333.7104, or a combination of
10 ~~intoxicating~~ **alcoholic** liquor and a controlled substance.

11 (b) The person has an alcohol content of 0.08 grams or more
12 per 100 milliliters of blood, per 210 liters of breath, or per 67
13 milliliters of urine.

14 (c) The person has in his or her body any amount of a
15 controlled substance listed in schedule 1 under section 7212 of the
16 public health code, 1978 PA 368, MCL 333.7212, or a rule
17 promulgated under that section, or of a controlled substance
18 described in section 7214(a) (iv) of the public health code, 1978 PA
19 368, MCL 333.7214.

20 (2) The owner or person in charge or in control of an ORV
21 shall not authorize or knowingly permit the ORV to be operated by a
22 person if any of the following apply:

23 (a) The person is under the influence of alcoholic liquor or a
24 controlled substance or a combination of alcoholic liquor and a
25 controlled substance.

26 (b) The person has an alcohol content of 0.08 grams or more
27 per 100 milliliters of blood, per 210 liters of breath, or per 67
28 milliliters of urine.

29 (c) The person's ability to operate an ORV is visibly impaired



1 due to the consumption of an alcoholic liquor, a controlled
2 substance, or a combination of an alcoholic liquor and a controlled
3 substance.

4 (3) A person shall not operate an ORV if, due to the
5 consumption of alcoholic liquor, a controlled substance, as defined
6 by section 7104 of the public health code, 1978 PA 368, MCL
7 333.7104, or a combination of alcoholic liquor and a controlled
8 substance, the person's ability to operate an ORV is visibly
9 impaired. If a person is charged with violating subsection (1), a
10 finding of guilty is permissible under this subsection.

11 (4) A person who operates an ORV in violation of subsection
12 (1) or (3) and by the operation of that ORV causes the death of
13 another person is guilty of a felony punishable by imprisonment for
14 not more than 15 years or a fine of not less than \$2,500.00 or more
15 than \$10,000.00, or both.

16 (5) A person who operates an ORV within this state in
17 violation of subsection (1) or (3) and by the operation of that ORV
18 causes a serious impairment of a body function of another person is
19 guilty of a felony punishable by imprisonment for not more than 5
20 years or a fine of not less than \$1,000.00 or more than \$5,000.00,
21 or both. As used in this subsection, "serious impairment of a body
22 function" means that term as defined in section 58c of the Michigan
23 vehicle code, 1949 PA 300, MCL 257.58c.

24 (6) A person who is less than 21 years of age, whether
25 licensed or not, shall not operate an ORV if the person has any
26 bodily alcohol content. As used in this subsection, "any bodily
27 alcohol content" means either of the following:

28 (a) An alcohol content of 0.02 grams or more but less than
29 0.08 grams per 100 milliliters of blood, per 210 liters of breath,



1 or per 67 milliliters of urine, or, beginning October 1, 2018, an
 2 alcohol content of 0.02 grams or more but less than 0.10 grams per
 3 100 milliliters of blood, per 210 liters of breath, or per 67
 4 milliliters of urine.

5 (b) Any presence of alcohol within a person's body resulting
 6 from the consumption of alcoholic liquor, other than consumption of
 7 alcoholic liquor as a part of a generally recognized religious
 8 service or ceremony.

9 (7) A person shall not operate an ORV in violation of
 10 subsection (1), (3), (4), (5), or (6) while another person who is
 11 less than 16 years of age is occupying the ORV.

12 (8) If a person is convicted of violating subsection (1)(a) or
 13 (b), all of the following apply:

14 (a) Except as otherwise provided in subdivisions (b) and (c),
 15 the person is guilty of a misdemeanor punishable by 1 or more of
 16 the following:

17 (i) Community service for not more than 360 hours.

18 (ii) Imprisonment for not more than 93 days.

19 (iii) A fine of not less than \$100.00 or more than \$500.00.

20 (b) If the violation occurs within 7 years of a prior
 21 conviction, the person shall be sentenced to pay a fine of not less
 22 than \$200.00 or more than \$1,000.00 and to 1 or more of the
 23 following:

24 (i) Imprisonment for not less than 5 days or more than 1 year.

25 ~~Not less than 48 hours of the term of imprisonment imposed under~~
 26 ~~this subparagraph shall be served consecutively.~~

27 (ii) Community service for not less than 30 days or more than
 28 90 days.

29 (c) If the violation occurs after 2 or more prior convictions,



1 regardless of the number of years that have elapsed since any prior
2 conviction, the person is guilty of a felony and shall be sentenced
3 to pay a fine of not less than \$500.00 or more than \$5,000.00 and
4 to either of the following:

5 (i) Imprisonment under the jurisdiction of the department of
6 corrections for not less than 1 year or more than 5 years.

7 (ii) Probation with imprisonment in the county jail for not
8 less than 30 days or more than 1 year and community service for not
9 less than 60 days or more than 180 days. Not less than 48 hours of
10 the imprisonment imposed under this subparagraph shall be served
11 consecutively.

12 (d) A term of imprisonment imposed under subdivision ~~(b)~~ or
13 (c) shall not be suspended.

14 (9) A person who is convicted of violating subsection (2) is
15 guilty of a misdemeanor punishable by imprisonment for not more
16 than 93 days or a fine of not less than \$100.00 or more than
17 \$500.00, or both.

18 (10) If a person is convicted of violating subsection (3), all
19 of the following apply:

20 (a) Except as otherwise provided in subdivisions (b) and (c),
21 the person is guilty of a misdemeanor punishable by 1 or more of
22 the following:

23 (i) Community service for not more than 45 days.

24 (ii) Imprisonment for not more than 93 days.

25 (iii) A fine of not more than \$300.00.

26 (b) If the violation occurs within 7 years of 1 prior
27 conviction, the person shall be sentenced to ~~both~~ a fine of not
28 less than \$200.00 or more than \$1,000.00, and either of the
29 following:



1 (i) Community service for not less than 10 days or more than 90
2 days, and may be sentenced to imprisonment for not more than 1
3 year.

4 (ii) Imprisonment for not more than 1 year, and may be
5 sentenced to community service for not more than 90 days.

6 (c) If the violation occurs after 2 or more prior convictions
7 regardless of the number of years that have elapsed since any prior
8 conviction, the person shall be sentenced to ~~both~~ a fine of not
9 less than \$200.00 or more than \$1,000.00 ~~—~~ and either of the
10 following:

11 (i) Community service for a period of not less than 10 days or
12 more than 90 days, and may be sentenced to imprisonment for not
13 more than 1 year.

14 (ii) Imprisonment for not more than 1 year, and may be
15 sentenced to community service for not more than 90 days.

16 (11) If a person is convicted of violating subsection (6), all
17 of the following apply:

18 (a) Except as otherwise provided in subdivision (b), the
19 person is guilty of a misdemeanor punishable by 1 or both of the
20 following:

21 (i) Community service for not more than 360 hours.

22 (ii) A fine of not more than \$250.00.

23 (b) If the violation occurs within 7 years of 1 or more prior
24 convictions, the person may be sentenced to 1 or more of the
25 following:

26 (i) Community service for not more than 60 days.

27 (ii) A fine of not more than \$500.00.

28 (iii) Imprisonment for not more than 93 days.



1 (12) A person who violates subsection (7) is guilty of a crime
2 as follows:

3 (a) A person who operates an ORV in violation of subsection
4 (1), (3), (4), or (5) while another person who is less than 16
5 years of age is occupying the ORV is guilty of a crime as follows:

6 (i) Except as provided in subdivision (b), a person who
7 violates this subdivision is guilty of a misdemeanor and shall be
8 sentenced to pay a fine of not less than \$200.00 or more than
9 \$1,000.00 and to 1 or more of the following:

10 (A) Imprisonment for not ~~less than 5 days or more than 1 year.~~
11 ~~Not less than 48 hours of this imprisonment shall be served~~
12 ~~consecutively. This term of imprisonment shall not be suspended.~~

13 (B) Community service for not less than 30 days or more than
14 90 days.

15 (ii) If the violation occurs within 7 years of a prior
16 conviction or after 2 or more prior convictions, regardless of the
17 number of years that have elapsed since any prior conviction, a
18 person who violates this subdivision is guilty of a felony and
19 shall be sentenced to pay a fine of not less than \$500.00 or more
20 than \$5,000.00 and to either of the following:

21 (A) Imprisonment under the jurisdiction of the department of
22 corrections for not less than 1 year or more than 5 years.

23 (B) Probation with imprisonment in the county jail for not
24 less than 30 days or more than 1 year and community service for not
25 less than 60 days or more than 180 days. Not less than 48 hours of
26 this imprisonment shall be served consecutively. This term of
27 imprisonment shall not be suspended.

28 (b) A person who operates an ORV in violation of subsection
29 (6) while another person who is less than 16 years of age is



1 occupying the ORV is guilty of a misdemeanor punishable as follows:

2 (i) Except as provided in subparagraph (ii), a person who
3 violates this subdivision may be sentenced to 1 or more of the
4 following:

5 (A) Community service for not more than 60 days.

6 (B) A fine of not more than \$500.00.

7 (C) Imprisonment for not more than 93 days.

8 (ii) If the violation occurs within 7 years of a prior
9 conviction or after 2 or more prior convictions, regardless of the
10 number of years that have elapsed since any prior conviction, a
11 person who violates this subdivision shall be sentenced to pay a
12 fine of not less than \$200.00 or more than \$1,000.00 and to 1 or
13 more of the following:

14 (A) Imprisonment for not less than 5 days or more than 1 year.
15 ~~Not less than 48 hours of this imprisonment shall be served~~
16 ~~consecutively. This term of imprisonment shall not be suspended.~~

17 (B) Community service for not less than 30 days or more than
18 90 days.

19 (13) For a conviction under subsection (4) or (5), the court
20 shall order, without an expiration date, that the person not
21 operate an ORV.

22 (14) As part of the sentence for a violation of subsection (1)
23 or a local ordinance substantially corresponding to subsection (1),
24 the court shall do the following:

25 (a) If the court finds that the person has no prior
26 convictions within 7 years, the court shall order that the person
27 not operate an ORV for a period of not less than 6 months or more
28 than 2 years.

29 (b) If the court finds that the person has 1 or more prior



1 convictions within 7 years, the court shall order that the person
 2 not operate an ORV for a period of not less than 1 year or more
 3 than 2 years.

4 (c) If the court finds that the person has 2 or more prior
 5 convictions within a period of 10 years, the court shall order that
 6 the person not operate an ORV for a period of not less than 1 year
 7 or more than 2 years.

8 (15) As part of the sentence for a violation of subsection (3)
 9 or a local ordinance substantially corresponding to subsection (3),
 10 the court shall do the following:

11 (a) If the court finds that the person has no prior
 12 convictions within 7 years, the court shall order that the person
 13 not operate an ORV for a period of not less than 90 days or more
 14 than 1 year.

15 (b) If the court finds that the person has 1 or more prior
 16 convictions within 7 years, the court shall order that the person
 17 not operate an ORV for a period of not less than 6 months or more
 18 than 18 months.

19 (c) If the court finds that the person has 2 or more prior
 20 convictions within a period of 10 years, the court shall order that
 21 the person not operate an ORV for a period of not less than 1 year
 22 or more than 2 years.

23 (16) In addition to imposing the sanctions prescribed under
 24 this section, the court may order the person to pay the costs of
 25 the prosecution under **chapter IX of** the code of criminal procedure,
 26 1927 PA 175, MCL ~~760.1 to 777.69.~~ **769.1 to 769.36.**

27 (17) A person sentenced to perform community service under
 28 this section shall not receive compensation and shall reimburse the
 29 state or appropriate local unit of government for the cost of



1 supervision incurred by the state or local unit of government as a
2 result of the person's activities in that service.

3 (18) Before imposing sentence for a violation of subsection
4 (1), (3), (6), or (7) or a local ordinance substantially
5 corresponding to subsection (1), (3), or (6), the court shall order
6 the person to undergo screening and assessment by a person or
7 agency designated by the office of substance abuse services, to
8 determine whether the person is likely to benefit from
9 rehabilitative services, including alcohol or drug education and
10 alcohol or drug treatment programs. As part of the sentence, the
11 court may order the person to participate in and successfully
12 complete 1 or more appropriate rehabilitative programs. The person
13 shall pay for the costs of the screening, assessment, and
14 rehabilitative services.

15 (19) Before accepting a plea of guilty under this section, the
16 court shall advise the accused of the statutory consequences
17 possible as the result of a plea of guilty in respect to suspension
18 of the person's right to operate an ORV and the penalty imposed for
19 violation of this section.

20 (20) Each municipal judge and each clerk of a court of record
21 shall keep a full record of every case in which a person is charged
22 with a violation of this section. The municipal judge or clerk of
23 the court of record shall prepare and immediately forward to the
24 secretary of state an abstract of the court of record for each case
25 charging a violation of this section.

26 Sec. 82128. (1) If a person is convicted of violating section
27 82127(1), the following apply:

28 (a) Except as otherwise provided in subdivisions (b) and (c),
29 the person is guilty of a misdemeanor and may be punished by 1 or



1 more of the following:

2 (i) Community service for not more than 45 days.

3 (ii) Imprisonment for not more than 93 days.

4 (iii) A fine of not less than \$100.00 or more than \$500.00.

5 (b) If the violation occurs within 7 years of a prior
6 conviction, the person shall be sentenced to ~~both~~ a fine of not
7 less than \$200.00 or more than \$1,000.00 and either of the
8 following:

9 (i) Community service for not less than 10 days or more than 90
10 days, and may be imprisoned for not more than 1 year.

11 (ii) Imprisonment for not ~~less than 48 consecutive hours or~~
12 more than 1 year, and may be sentenced to community service for not
13 more than 90 days.

14 (c) If the violation occurs after 2 or more prior convictions
15 regardless of the number of years that have elapsed since any prior
16 conviction, the person is guilty of a felony and shall be sentenced
17 to imprisonment for not less than 1 year or more than 5 years ~~or~~
18 a fine of not less than \$500.00 or more than \$5,000.00, or both.

19 ~~(2) A term of imprisonment imposed under subsection (1) (b) (ii)~~
20 ~~shall not be suspended.~~

21 (2) ~~(3)~~ A person sentenced to perform service to the community
22 under this section shall not receive compensation and shall
23 reimburse the state or appropriate local unit of government for the
24 cost of supervision incurred by the state or local unit of
25 government as a result of the person's activities in that service
26 if ordered by the court.

27 (3) ~~(4)~~ In addition to the sanctions prescribed under
28 subsection (1) and section 82127(4) and (5), the court may, under
29 **chapter IX of** the code of criminal procedure, 1927 PA 175, MCL



1 ~~760.1 to 777.69, 769.1 to 769.36~~, order the person to pay the costs
 2 of the prosecution. The court shall also impose sanctions under
 3 section 82142.

4 **(4)** ~~(5)~~—A person who is convicted of violating section
 5 82127(2) is guilty of a misdemeanor, punishable by imprisonment for
 6 not more than 93 days ~~—~~or a fine of not less than \$100.00 or more
 7 than \$500.00, or both.

8 Sec. 82129b. (1) A person who violates section 82127(7) (a) is
 9 guilty of a crime punishable as follows:

10 (a) Except as provided in subdivision (b), a person who
 11 violates section 82127(7) (a) is guilty of a misdemeanor and shall
 12 be sentenced to pay a fine of not less than \$200.00 or more than
 13 \$1,000.00 and to 1 or more of the following:

14 (i) ~~Imprisonment for not less than 5 days or more than 1 year.~~
 15 ~~Not less than 48 hours of this imprisonment shall be served~~
 16 ~~consecutively. This term of imprisonment shall not be suspended.~~

17 (ii) Community service for not less than 30 days or more than
 18 90 days.

19 (b) If the violation occurs within 7 years of a prior
 20 conviction or after 2 or more prior convictions, regardless of the
 21 number of years that have elapsed since any prior conviction, a
 22 person who violates section 82127(7) (a) is guilty of a felony and
 23 shall be sentenced to pay a fine of not less than \$500.00 or more
 24 than \$5,000.00 and to either of the following:

25 (i) Imprisonment under the jurisdiction of the department of
 26 corrections for not less than 1 year or more than 5 years.

27 (ii) Probation with imprisonment in the county jail for not
 28 less than 30 days or more than 1 year and community service for not
 29 less than 60 days or more than 180 days. Not less than 48 hours of



1 this imprisonment shall be served consecutively. This term of
2 imprisonment shall not be suspended.

3 (2) A person who violates section 82127(7)(b) is guilty of a
4 misdemeanor punishable as follows:

5 (a) Except as provided in subdivision (b), a person who
6 violates section 82127(7)(b) may be sentenced to 1 or more of the
7 following:

8 (i) Community service for not more than 60 days.

9 (ii) A fine of not more than \$500.00.

10 (iii) Imprisonment for not more than 93 days.

11 (b) If the violation occurs within 7 years of a prior
12 conviction or after 2 or more prior convictions, regardless of the
13 number of years that have elapsed since any prior conviction, a
14 person who violates section 82127(7)(b) shall be sentenced to pay a
15 fine of not less than \$200.00 or more than \$1,000.00 and to 1 or
16 more of the following:

17 (i) Imprisonment for not ~~less than 5 days or~~ more than 1 year.
18 ~~Not less than 48 hours of this imprisonment shall be served~~
19 ~~consecutively. This term of imprisonment shall not be suspended.~~

20 (ii) Community service for not less than 30 days or more than
21 90 days.

22 (3) In addition to imposing the sanctions prescribed under
23 this section, the court may order the person to pay the costs of
24 the prosecution under **chapter IX of** the code of criminal procedure,
25 1927 PA 175, MCL ~~760.1 to 777.69.~~ **769.1 to 769.36.**

26 (4) A person sentenced to perform community service under this
27 section shall not receive compensation and shall reimburse the
28 state or appropriate local unit of government for the cost of
29 supervision incurred by the state or local unit of government as a



1 result of the person's activities in that service.

