

# HOUSE BILL NO. 4021

January 18, 2023, Introduced by Rep. VanderWall and referred to the Committee on Judiciary.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 81101, 81132, 81145, 81146, and 81150 (MCL 324.81101, 324.81132, 324.81145, 324.81146, and 324.81150), section 81101 as amended by 2020 PA 385 and sections 81132, 81145, 81146, and 81150 as added by 1995 PA 58.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

- 1** Sec. 81101. As used in this part:
- 2** (a) "Alcoholic liquor" means that term as defined in section

1 1d of the Michigan vehicle code, 1949 PA 300, MCL 257.1d.

2 (b) "ATV" means a vehicle with 3 or more wheels that is  
3 designed for off-road use, has low-pressure tires, has a seat  
4 designed to be straddled by the rider, and is powered by a 50cc to  
5 1,000cc gasoline engine or an engine of comparable size using other  
6 fuels.

7 (c) "Code" means the Michigan vehicle code, 1949 PA 300, MCL  
8 257.1 to 257.923.

9 (d) "County road" means a county primary road or county local  
10 road as described in section 5 of 1951 PA 51, MCL 247.655, or a  
11 segment thereof.

12 (e) "Dealer" means a person engaged in the sale, lease, or  
13 rental of an ORV as a regular business or, for purposes of selling  
14 licenses under section 81116, any other person authorized by the  
15 department to sell licenses or permits, or both, under this act.

16 (f) "Designated", unless the context implies otherwise, means  
17 posted by the department, with appropriate signs, as open for ORV  
18 use.

19 (g) "Farm vehicle" means either of the following:

20 (i) An implement of husbandry as defined in section 21 of the  
21 Michigan vehicle code, 1949 PA 300, MCL 257.21.

22 (ii) A vehicle used in connection with a farm operation as  
23 defined in section 2 of the Michigan right to farm act, 1981 PA 93,  
24 MCL 286.472.

25 (h) "Forest road" means a hard surfaced road, gravel or dirt  
26 road, or other route capable of travel by a 2-wheel drive, 4-wheel  
27 conventional vehicle designed for road use. Forest road does not  
28 include a street, county road, or highway.

29 (i) "Forest trail" means a designated path or way that is not

1 a route.

2 (j) "Highway" means a state trunk line highway or a segment of  
3 a state trunk line highway.

4 (k) "Highly restricted personal information" means an  
5 individual's photograph or image, Social Security number, digitized  
6 signature, and medical and disability information.

7 (l) "Late model ORV" means an ORV manufactured in the current  
8 model year or the 5 model years immediately preceding the current  
9 model year.

10 (m) "Law of another state" means a law or ordinance enacted by  
11 any of the following:

12 (i) Another state.

13 (ii) A local unit of government in another state.

14 (iii) Canada or a province or territory of Canada.

15 (iv) A local unit of government in a province or territory of  
16 Canada.

17 (n) "Local unit of government" means a county, township, or  
18 municipality.

19 (o) "Maintained portion" means the roadway and any shoulder of  
20 a street, county road, or highway.

21 (p) "Manufacturer" means a person, partnership, corporation,  
22 or association engaged in the production and manufacture of ORVs as  
23 a regular business.

24 (q) "Municipality" means a city or village.

25 (r) "Off-road vehicle account" means the off-road vehicle  
26 account of the Michigan conservation and recreation legacy fund  
27 established in section 2015.

28 (s) "Operate" means to ride in or on, and be in actual  
29 physical control of, the operation of an ORV.

1 (t) "Operator" means an individual who operates or is in  
2 actual physical control of the operation of an ORV.

3 (u) "ORV" or, unless the context implies a different meaning,  
4 "vehicle" means a motor-driven off-road recreation vehicle capable  
5 of cross-country travel without benefit of a road or trail, on or  
6 immediately over land, snow, ice, marsh, swampland, or other  
7 natural terrain. A multitrack or multiwheel drive vehicle, a  
8 motorcycle or related 2-wheel vehicle, a vehicle with 3 or more  
9 wheels, an amphibious machine, a ground effect air cushion vehicle,  
10 or other means of transportation may be an ORV. An ATV is an ORV.  
11 ORV or vehicle does not include a registered snowmobile, a farm  
12 vehicle being used for farming, a vehicle used for military, fire,  
13 emergency, or law enforcement purposes, a vehicle owned and  
14 operated by a utility company or an oil or gas company when  
15 performing maintenance on its facilities or on property over which  
16 it has an easement, a construction or logging vehicle used in  
17 performance of its common function, or a registered aircraft.

18 (v) "ORV safety certificate" means an ORV safety certificate  
19 issued under section 81130 or, except as used in section 81130, a  
20 comparable safety certificate issued under the authority of another  
21 state or province of Canada.

22 (w) "Owner" means any of the following:

23 (i) A vendee or lessee of an ORV that is the subject of an  
24 agreement for the conditional sale or lease of the ORV, with the  
25 right of purchase upon performance of the conditions stated in the  
26 agreement, and with an immediate right of possession vested in the  
27 conditional vendee or lessee.

28 (ii) A person renting an ORV, or having the exclusive use of an  
29 ORV, for more than 30 days.

1 (iii) A person who holds legal ownership of an ORV.

2 (x) "Peace officer" means any of the following:

3 (i) A sheriff.

4 (ii) A sheriff's deputy.

5 (iii) A deputy who is authorized by a sheriff to enforce this  
6 part and who has satisfactorily completed at least 40 hours of law  
7 enforcement training, including training specific to this part.

8 (iv) A village or township marshal.

9 (v) An officer of the police department of a municipality.

10 (vi) An officer of the department of state police.

11 (vii) The director and conservation officers employed by the  
12 department.

13 (y) ~~(x)~~—"Person with a disability" means an individual who has  
14 1 or more of the following physical characteristics:

15 (i) Blindness.

16 (ii) Inability, during some time of the year, to ambulate more  
17 than 200 feet without having to stop and rest.

18 (iii) Loss of use of 1 or both legs or feet.

19 (iv) Inability to ambulate without the prolonged use of a  
20 wheelchair, walker, crutches, braces, or other device required to  
21 aid mobility.

22 (v) A lung disease from which the individual's expiratory  
23 volume for 1 second, measured by spirometry, is less than 1 liter,  
24 or from which the individual's arterial oxygen tension is less than  
25 60 mm/hg of room air at rest.

26 (vi) A cardiovascular disease that causes the individual to  
27 measure between 3 and 4 on the New York heart classification scale,  
28 or that results in a marked limitation of physical activity by

1 causing fatigue, palpitation, dyspnea, or anginal pain.

2 (vii) Other diagnosed disease or disorder including, but not  
3 limited to, severe arthritis or a neurological or orthopedic  
4 impairment that creates a severe mobility limitation.

5 (z) ~~(y)~~ "Personal information" means information that  
6 identifies an individual, including an individual's driver  
7 identification number, name, address not including zip code, and  
8 telephone number, but does not include information on ORV operation  
9 or equipment-related violations or civil infractions, operator or  
10 vehicle registration status, accidents, or other behaviorally  
11 related information.

12 (aa) ~~(z)~~ "Prior conviction" means a conviction for any of the  
13 following, whether under a law of this state, a local ordinance  
14 substantially corresponding to a law of this state, a law of the  
15 United States substantially corresponding to a law of this state,  
16 or a law of another state substantially corresponding to a law of  
17 this state:

18 (i) A violation or an attempted violation of section 81134(1),  
19 (3), (4), (5), (6), or (7), except that only 1 violation or  
20 attempted violation of section 81134(6), a local ordinance  
21 substantially corresponding to section 81134(6), a law of another  
22 state substantially corresponding to section 81134(6), or a law of  
23 the United States substantially corresponding to section 81134(6)  
24 may be used as a prior conviction other than for enhancement  
25 purposes as provided in section 81134(11)(b).

26 (ii) Negligent homicide, manslaughter, or murder resulting from  
27 the operation of an ORV, or an attempt to commit any of those  
28 crimes.

29 (iii) Former section 81135.

1           **(bb)** ~~(aa)~~—"Public agency" means the department or a local or  
2 federal unit of government.

3           **(cc)** ~~(bb)~~—"Roadway" means the portion of a street, county  
4 road, or highway improved, designed, or ordinarily used for travel  
5 by vehicles registered under the code. Roadway does not include the  
6 shoulder.

7           **(dd)** ~~(ee)~~—"Route" means a forest road or other road that is  
8 designated for purposes of this part by the department.

9           **(ee)** ~~(dd)~~—"Safety chief instructor" means an individual who  
10 has been certified by a nationally recognized ORV organization to  
11 certify instructors and to do on-sight evaluations of instructors.

12           **(ff)** ~~(ee)~~—"Shoulder" means that portion of a street, county  
13 road, or highway contiguous to the roadway and generally extending  
14 the contour of the roadway, not designed for vehicular travel but  
15 maintained for the temporary accommodation of disabled or stopped  
16 motor vehicles otherwise permitted on the roadway.

17           **(gg)** ~~(ff)~~—"Southern county" means Muskegon, Kent, Ionia,  
18 Clinton, Shiawassee, Genesee, Lapeer, or Macomb County, or a county  
19 lying south of the territory constituted by these counties.

20           **(hh)** ~~(gg)~~—"Specialty court program" means a program under any  
21 of the following:

22           (i) A drug treatment court, as defined in section 1060 of the  
23 revised judicature act of 1961, 1961 PA 236, MCL 600.1060, in which  
24 the participant is an adult.

25           (ii) A DWI/sobriety court, as defined in section 1084 of the  
26 revised judicature act of 1961, 1961 PA 236, MCL 600.1084.

27           (iii) A hybrid of the programs under subparagraphs (i) and (ii).

28           (iv) A mental health court as defined in section 1090 of the  
29 revised judicature act of 1961, 1961 PA 236, MCL 600.1090.

1 (v) A veterans treatment court, as defined in section 1200 of  
2 the revised judicature act of 1961, 1961 PA 236, MCL 600.1200.

3 (ii) ~~(hh)~~ "Street" means a city or village major street or  
4 city or village local street as described in section 9 of 1951 PA  
5 51, MCL 247.659, or a segment thereof.

6 (jj) ~~(ii)~~ "Traffic lane" means a clearly marked lane on a  
7 roadway.

8 (kk) ~~(jj)~~ "Unmaintained portion" means the portion of a  
9 street, county road, or highway that is not the maintained portion.

10 (ll) ~~(kk)~~ "Visual supervision" means the direct observation of  
11 the operator with the unaided or normally corrected eye by an  
12 observer who is able to come to the immediate aid of the operator.

13 Sec. 81132. (1) The department may promulgate rules governing  
14 the operation and conduct of ORVs, vehicle speed limits, use of  
15 vehicles by day and hour, and the establishment and designation of  
16 areas within which vehicles may be used in a manner compatible  
17 with, and that will best protect, the public safety and general  
18 welfare on the frozen surface of public waters, and that will  
19 preserve the submerged marshlands adjacent to the borders of the  
20 Great Lakes, ~~lake~~ **Lake** St. Clair, and the navigable inland waters  
21 of the state.

22 (2) The department, on its own initiative or ~~upon~~ **on** receipt  
23 of a certified resolution of the governing body of a local unit of  
24 government may initiate investigations into the need for special  
25 rules governing the operation of vehicles on the frozen surface of  
26 public waters and the submerged marshlands adjacent to the borders  
27 of the Great Lakes, ~~lake~~ **Lake** St. Clair, and the navigable inland  
28 waters of the state. If controls for that activity are considered  
29 necessary, or when the amendment or rescission of an existing rule



1 is required, a rule ~~shall~~**must** be prepared. Notice of a public  
 2 hearing ~~shall~~**must** be made not less than 10 days prior to the  
 3 hearing, in a newspaper of general circulation in the area within  
 4 which the rules are to be imposed, amended, or rescinded.

5 (3) The proposed rule ~~shall~~**must** then be submitted to the  
 6 governing body of the political subdivision in which the affected  
 7 frozen waters or marshes lie. Within 30 calendar days, the  
 8 governing body shall inform the department that it approves or  
 9 disapproves of the proposed rule. If the governing body disapproves  
 10 the proposed rule, further action ~~shall~~**must** not be taken. If the  
 11 governing body approves the proposed rule, a local ordinance may be  
 12 enacted which ~~shall~~**must** be identical to the rule, and which  
 13 ordinance ~~shall~~**must** not be effective until the rule is in effect  
 14 in accordance with law. The department shall then promulgate the  
 15 rule.

16 (4) When an ordinance is enacted under the authority of a  
 17 rule, and that rule is subsequently suspended by the legislature,  
 18 or amended or rescinded by the department, the ordinance ~~shall~~**must**  
 19 also be suspended, amended, or repealed.

20 (5) A local ~~law enforcement~~**peace** officer may enforce an  
 21 ordinance enacted pursuant to this section, and a state ~~law~~  
 22 ~~enforcement~~**peace** officer shall enforce a rule promulgated under  
 23 this section.

24 Sec. 81145. (1) ~~Law enforcement officers~~**A peace officer** may  
 25 issue **an** appearance ~~tickets~~**ticket** for ~~violations~~**a violation** of  
 26 this part, ~~pursuant to~~**under** sections 9a to 9g of ~~chapter 4 of Act~~  
 27 ~~No. 175 of the Public Acts of 1927, being sections 764.9a to 764.9g~~  
 28 ~~of the Michigan Compiled Laws.~~**the code of criminal procedure, 1927**  
 29 **PA 175, MCL 764.9a to 764.9g.**

1           (2) In a proceeding for a violation of this part involving  
2 prohibited operation or conduct, the registration number or  
3 numbered decal or vehicle identification number displayed on an ORV  
4 ~~shall constitute~~**constitutes** prima facie evidence that the owner of  
5 the vehicle was the person operating the vehicle at the time of the  
6 offense; unless the owner identifies the operator **of the vehicle** to  
7 ~~law enforcement officials, a peace officer~~, the vehicle was  
8 reported as stolen at the time of the violation, or that the  
9 vehicle was stolen or not in use at the time of the violation.

10           Sec. 81146. (1) An operator of an ORV, who is given by hand,  
11 voice, emergency light, or siren a visual or audible signal by a  
12 ~~law enforcement~~**peace** officer acting in the lawful performance of  
13 ~~his or her~~**the peace officer's** duty, directing the operator to  
14 bring the vehicle to a stop, and who willfully fails to obey the  
15 signal by increasing speed, extinguishing lights, or otherwise  
16 attempting to flee or elude the officer, is guilty of a  
17 misdemeanor. The **peace** officer giving the signal ~~shall~~**must** be in  
18 uniform, and the **peace** officer's vehicle ~~shall~~**must** be easily  
19 identifiable as an official law enforcement vehicle.

20           (2) The operator of a vehicle on the private premises of  
21 another, when visibly hailed by the owner or the owner's authorized  
22 agent, shall bring the vehicle to an immediate stop and provide  
23 personal identification. Refusal to obey such a request to stop or  
24 subsequent escape or attempt to escape is a misdemeanor.

25           Sec. 81150. The department shall disseminate information to  
26 its field officers and to state and local law enforcement agencies  
27 on a uniform interpretation of this part and each **peace** officer's  
28 duties and responsibilities in enforcing this part.