

HOUSE BILL No. 4299

February 21, 2013, Introduced by Reps. Bumstead, Genetski and Franz and referred to the Committee on Tourism.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 81131 (MCL 324.81131), as amended by 2011 PA 107.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 81131. (1) A municipality may pass an ordinance allowing
2 a permanently disabled person to operate an ORV in that
3 municipality.

4 (2) Subject to subsection (4), ~~the~~**A** county board of
5 commissioners ~~of an eligible county~~ may adopt an ordinance
6 authorizing the operation of ORVs on the maintained portion of 1 or
7 more roads located within the county. Not less than 45 days before
8 a public hearing on the ordinance, the county clerk shall send
9 notice of the public hearing, by certified mail, to the county road

1 commission and, if state forestland is located within the county,
2 to the department.

3 (3) Subject to subsection (4), ~~the~~**A** township board ~~of a~~
4 ~~township located in an eligible county~~ may adopt an ordinance
5 authorizing the operation of ORVs on the maintained portion of 1 or
6 more roads located within the township. Not less than 28 days
7 before a public hearing on the ordinance, the township clerk shall
8 send notice of the public hearing, by certified mail, to the county
9 road commission and, if state forestland is located within the
10 township, to the department. This subsection does not apply to a
11 township until 1 year after the effective date of the amendatory
12 act that first ~~defined eligible county so as to include~~ **AUTHORIZED**
13 the county in which that township is located **TO ADOPT AN ORDINANCE**
14 **UNDER SUBSECTION (2)**.

15 (4) The board of county road commissioners may close a road to
16 the operation of ORVs ~~under~~ **OTHERWISE AUTHORIZED PURSUANT TO**
17 subsection (2) or (3) to protect the environment or if ~~the~~ **SUCH**
18 operation of ORVs ~~under subsection (2) or (3)~~ poses a particular
19 and demonstrable threat to public safety. A county road commission
20 shall not under this subsection close more than 30% of the linear
21 miles of roads located within the county to the operation of ORVs
22 ~~under~~ **OTHERWISE AUTHORIZED PURSUANT TO** subsection (2) or (3). ~~The~~ **A**
23 township board ~~of a township located in an eligible county~~ may
24 adopt an ordinance to close a road to the operation of ORVs ~~under~~
25 **OTHERWISE AUTHORIZED PURSUANT TO** subsection (2).

26 (5) The legislative body of a municipality ~~located in an~~
27 ~~eligible county~~ may adopt an ordinance authorizing the operation of

1 ORVs on the maintained portion of 1 or more streets within the
2 municipality.

3 (6) Subject to subsection (4), if a local unit of government
4 adopts an ordinance pursuant to subsection (2), (3), or (5), a
5 person may operate an ORV with the flow of traffic on the far right
6 of the maintained portion of the road or street covered by the
7 ordinance. A person shall not operate an ORV pursuant to subsection
8 (2), (3), or (5) at a speed greater than 25 miles per hour or a
9 lower posted ORV speed limit or in a manner that interferes with
10 traffic on the road or street.

11 (7) Unless the person possesses a license as defined in
12 section 25 of the Michigan vehicle code, 1949 PA 300, MCL 257.25, a
13 person shall not operate an ORV **AS AUTHORIZED** pursuant to
14 subsection (2), (3), or (5) if the ORV is registered as a motor
15 vehicle under chapter II of the Michigan vehicle code, 1949 PA 300,
16 MCL 257.201 to 257.259, and either is more than 60 inches wide or
17 has 3 wheels. ORVs operated **AS AUTHORIZED** pursuant to subsection
18 (2), (3), or (5) shall travel single file, except that an ORV may
19 travel abreast of another ORV when it is overtaking and passing, or
20 being overtaken and passed by, another ORV.

21 (8) A person shall not operate an ORV **AS AUTHORIZED** pursuant
22 to this section without displaying a lighted headlight and lighted
23 taillight.

24 (9) A person under 18 years of age shall not operate an ORV **AS**
25 **AUTHORIZED** pursuant to this section unless the person is in
26 possession of a valid driver license or under the direct
27 supervision of a parent or guardian and the person has in his or

1 her immediate possession an ORV safety certificate issued pursuant
2 to this part or a comparable ORV safety certificate issued under
3 the authority of another state or a province of Canada. A person
4 under 12 years of age shall not operate an ORV **AS AUTHORIZED**
5 pursuant to this section. The requirements of this subsection are
6 in addition to any applicable requirements of section 81129.

7 (10) A township that has authorized the operation of ORVs on a
8 road under subsection (3) does not have a duty to maintain the road
9 in a condition reasonably safe and convenient for the operation of
10 ORVs. A board of county road commissioners, a county board of
11 commissioners, or a municipality does not have a duty to maintain a
12 road or street under its jurisdiction in a condition reasonably
13 safe and convenient for the operation of ORVs, except the following
14 ORVs:

15 (a) ORVs registered as motor vehicles as provided in the code.

16 (b) ORVs ~~permitted by an ordinance as provided in~~ **OPERATED AS**
17 **AUTHORIZED PURSUANT TO** subsection (1).

18 (11) ~~Beginning October 19, 1993, a~~ **A** board of county road
19 commissioners, a county board of commissioners, ~~and a county, are,~~
20 ~~and, beginning on April 25, 1995, a municipality is,~~ **ARE** immune
21 from tort liability for injuries or damages sustained by any person
22 arising in any way out of the operation or use of an ORV on
23 maintained or unmaintained roads, streets, shoulders, and rights-
24 of-way over which the board of county road commissioners, the
25 county board of commissioners, or the municipality has
26 jurisdiction. The immunity provided by this subsection does not
27 apply to actions that constitute gross negligence. As used in this

1 subsection, "gross negligence" means conduct so reckless as to
2 demonstrate a substantial lack of concern for whether an injury
3 results.

4 (12) In a court action in this state, if competent evidence
5 demonstrates that a vehicle that is permitted to operate on a road
6 or street pursuant to the code was in a collision with an ORV
7 required to be operated on the far right of the maintained portion
8 of a road or street ~~pursuant to an ordinance adopted under~~
9 ~~subsection (2), (3), or (5)~~ **UNDER SUBSECTION (6)**, the operator of
10 the ORV shall be considered prima facie negligent.

11 (13) A violation of an ordinance described in this section is
12 a municipal civil infraction. The ordinance may provide for a
13 ~~maximum~~ fine of not more than \$500.00 for a violation of the
14 ordinance. In addition, the court shall order the defendant to pay
15 the cost of repairing any damage to the environment, a road or
16 street, or public property ~~damaged~~ as a result of the violation.

17 (14) The treasurer of the local unit of government shall
18 deposit fines collected by that local unit of government under
19 section 8379 of the revised judicature act of 1961, 1961 PA 236,
20 MCL 600.8379, and subsection (13) and damages collected under
21 subsection (13) into a fund to be designated as the "ORV fund". The
22 legislative body of the local unit of government shall appropriate
23 revenue in the ORV fund as follows:

24 (a) Fifty percent to the county sheriff or police department
25 responsible for law enforcement in the local unit of government for
26 ORV enforcement and training.

27 (b) Fifty percent to the board of county road commissioners

1 or, in the case of a city or village, to the department responsible
2 for street maintenance in the city or village, for repairing damage
3 to roads or streets and the environment that may have been caused
4 by ORVs and for posting signs indicating ORV speed limits or
5 indicating whether roads or streets are open or closed to the
6 operation of ORVs under this section.

7 (15) As used in this section:

8 ~~—— (a) "Eligible county" means any of the following:~~

9 ~~—— (i) Oceana, Newaygo, Montcalm, Gratiot, Saginaw, Tuscola, or~~
10 ~~Sanilac county or a county lying north thereof, including all of~~
11 ~~the counties of the Upper Peninsula.~~

12 ~~—— (ii) St. Clair county.~~

13 (A) ~~(b)~~ "Local unit of government" means a county, township,
14 or municipality.

15 (B) ~~(c)~~ "Municipality" means a city or village.

16 (C) ~~(d)~~ "Road" means a county primary road or county local
17 road as described in section 5 of 1951 PA 51, MCL 247.655.

18 (D) ~~(e)~~ "Street" means a city or village major street or city
19 or village local street as described in section 9 of 1951 PA 51,
20 MCL 247.659.