

# HOUSE BILL No. 5614

May 9, 2012, Introduced by Rep. Huuki and referred to the Committee on Natural Resources, Tourism, and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 71108, 81101, and 81102 (MCL 324.71108, 324.81101, and 324.81102), section 71108 as amended by 2004 PA 587, section 81101 as amended by 2009 PA 200, and section 81102 as added by 1995 PA 58.

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

1           Sec. 71108. (1) The state treasurer shall annually review and  
2 make recommendations to the legislature on the distributions of the  
3 recreation improvement account, including recreational projects and  
4 geographic locations.

5           (2) Money in the recreation improvement account shall be  
6 distributed as follows:

7           (a) ~~Eighty~~ **SEVENTY** percent of the money shall be annually

1 transferred to the waterways account.

2 (b) Fourteen percent of the money shall be annually  
3 transferred to the snowmobile account.

4 (C) **TEN PERCENT OF THE MONEY SHALL BE ANNUALLY TRANSFERRED TO**  
5 **THE OFF-ROAD VEHICLE ACCOUNT.**

6 (D) ~~(e)~~—The remainder of the money that is not transferred  
7 under subdivisions (a), (B), and ~~(b)~~—(C) shall be used, upon  
8 appropriation, for recreation projects and for the administration  
9 of the recreation improvement account. Of the money credited to  
10 recreational projects in a fiscal year, not less than 25% shall be  
11 expended on projects to repair damages as a result of pollution,  
12 impairment, or destruction of air, water, or other natural  
13 resources, or the public trust in air, water, or other natural  
14 resources, as a result of the use of off-road vehicles.

15 Sec. 81101. As used in this part:

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

20 (b) "Code" means the Michigan vehicle code, 1949 PA 300, MCL  
21 257.1 to 257.923.

22 (c) "Dealer" means a person engaged in the sale, lease, or  
23 rental of an ORV as a regular business or, for purposes of selling  
24 ~~licenses~~ **TRAIL PERMITS** under section 81116, any other person  
25 authorized by the department to sell licenses or permits, or both,  
26 under this act.

27 (d) "Designated", unless the context implies otherwise, means

1 posted open for ORV use with appropriate signs by the department.

2 (E) "ENFORCEMENT OFFICER" MEANS ANY OF THE FOLLOWING:

3 (i) A SHERIFF.

4 (ii) A SHERIFF'S DEPUTY.

5 (iii) AN INDIVIDUAL WHO IS AUTHORIZED BY A SHERIFF TO ENFORCE  
6 THIS PART AND WHO HAS SATISFACTORILY COMPLETED AT LEAST 40 HOURS OF  
7 LAW ENFORCEMENT TRAINING, INCLUDING TRAINING SPECIFIC TO THIS PART.

8 (iv) A VILLAGE OR TOWNSHIP MARSHAL.

9 (v) AN OFFICER OF THE POLICE DEPARTMENT OF ANY MUNICIPALITY.

10 (vi) AN OFFICER OF THE MICHIGAN STATE POLICE.

11 (vii) THE DIRECTOR AND CONSERVATION OFFICERS EMPLOYED BY THE  
12 DEPARTMENT.

13 (viii) A LAW ENFORCEMENT OFFICER WHO IS CERTIFIED UNDER THE  
14 COMMISSION ON LAW ENFORCEMENT STANDARDS ACT, 1965 PA 203, MCL  
15 28.601 TO 28.616, WHILE PERFORMING HIS OR HER DUTIES WITHIN HIS OR  
16 HER JURISDICTION.

17 (F) ~~(e)~~—"Farm vehicle" means either of the following:

18 (i) An implement of husbandry as that term is defined in  
19 section 21 of the Michigan vehicle code, 1949 PA 300, MCL 257.21.

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

23 (G) ~~(f)~~—"Forest road" means a hard surfaced road, gravel or  
24 dirt road, or other route capable of travel by a 2-wheel drive, 4-  
25 wheel conventional vehicle designed for highway use, except an  
26 interstate, state, or county highway.

27 (H) ~~(g)~~—"Forest trail" means a designated path or way capable

1 of travel only by a vehicle less than 50 inches in width.

2 (I) ~~(h)~~—"Highway" means the entire width between the boundary  
3 lines of a way publicly maintained when any part of the way is open  
4 to the use of the public for purposes of vehicular travel.

5 (J) ~~(i)~~—"Highly restricted personal information" means an  
6 individual's photograph or image, social security number, digitized  
7 signature, and medical and disability information.

8 (K) ~~(j)~~—"Late model ORV" means an ORV manufactured in the  
9 current model year or the 5 model years immediately preceding the  
10 current model year.

11 (L) ~~(k)~~—"Manufacturer" means a person, partnership,  
12 corporation, or association engaged in the production and  
13 manufacture of ORVs as a regular business.

14 (M) ~~(l)~~—"Off-road vehicle account" means the off-road vehicle  
15 account of the Michigan conservation and recreation legacy fund  
16 established in section 2015.

17 (N) ~~(m)~~—"Operate" means to ride in or on, and be in actual  
18 physical control of, the operation of an ORV.

19 (O) ~~(n)~~—"Operator" means a person who operates or is in actual  
20 physical control of the operation of an ORV.

21 (P) ~~(o)~~—"ORV" or "vehicle" means a motor-driven off-road  
22 recreation vehicle capable of cross-country travel without benefit  
23 of a road or trail, on or immediately over land, snow, ice, marsh,  
24 swampland, or other natural terrain. ORV or vehicle includes, but  
25 is not limited to, a multitrack or multiwheel drive vehicle, an  
26 ATV, a motorcycle or related 2-wheel, 3-wheel, 4-wheel, or 6-wheel  
27 vehicle, an amphibious machine, ~~a ground effect air cushion~~

1 ~~vehicle,~~ or other means of transportation deriving motive power  
2 from a source other than muscle or wind. ORV or vehicle does not  
3 include a registered snowmobile, a farm vehicle being used for  
4 farming, a vehicle used for military, fire, emergency, or law  
5 enforcement purposes, a vehicle owned and operated by a utility  
6 company or an oil or gas company when performing maintenance on its  
7 facilities or on property over which it has an easement, a  
8 construction or logging vehicle used in performance of its common  
9 function, or a registered aircraft.

10       (Q) "OTHER ROUTE" MEANS A LINEAR ROUTE CAPABLE OF SUSTAINING  
11 ORV TRAFFIC UP TO 72 INCHES IN WIDTH THAT IS NOT A HIGHWAY OR  
12 FOREST ROAD. OTHER ROUTE INCLUDES, BUT IS NOT LIMITED TO, FORMER  
13 LOGGING ACCESS ROADS, ABANDONED STATE OR COUNTY ROADS, AND  
14 ABANDONED RAILROAD BEDS THAT ARE NOT DEDICATED FOR OTHER USES.

15       (R) ~~(p)~~ "Owner" means any of the following:

16       (i) A vendee or lessee of an ORV that is the subject of an  
17 agreement for the conditional sale or lease of the ORV, with the  
18 right of purchase upon performance of the conditions stated in the  
19 agreement, and with an immediate right of possession vested in the  
20 conditional vendee or lessee.

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

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

24       (S) ~~(q)~~ "Person with disabilities" means a person who has 1 or  
25 more of the following physical characteristics:

26       (i) Blindness.

27       (ii) Inability to ambulate more than 200 feet without having to

1 stop and rest during any time of the year.

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

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

6 (v) A lung disease from which the person's expiratory volume  
7 for 1 second, when measured by spirometry, is less than 1 liter, or  
8 from which the person's arterial oxygen tension is less than 60  
9 mm/hg of room air at rest.

10 (vi) A cardiovascular disease from which the person measures  
11 between 3 and 4 on the New York heart classification scale, or from  
12 which a marked limitation of physical activity causes fatigue,  
13 palpitation, dyspnea, or anginal pain.

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

17 (T) ~~(P)~~—"Personal information" means information that  
18 identifies an individual, including an individual's driver  
19 identification number, name, address not including zip code, and  
20 telephone number, but does not include information on ORV operation  
21 or equipment-related violations or civil infractions, operator or  
22 vehicle registration status, accidents, or other behaviorally-  
23 related information.

24 (U) ~~(S)~~—"Public agency" means the department or a local or  
25 federal unit of government.

26 (V) ~~(R)~~—"Roadway" means that portion of a highway improved,  
27 designated, or ordinarily used for vehicular travel. If a highway

1 includes 2 or more separate roadways, the term roadway refers to a  
2 roadway separately, but not to all roadways collectively.

3 (W) ~~(u)~~-"Route" means a forest road or other ~~road~~**ROUTE** that  
4 is designated for purposes of this part by the department.

5 (X) ~~(v)~~-"Safety chief instructor" means a person who has ~~been~~  
6 ~~certified by a nationally recognized ATV and ORV organization to~~  
7 ~~certify instructors and to do on sight evaluations of instructors~~  
8 **COMPLETED NATIONALLY RECOGNIZED SAFETY TRAINING FOR ALL ORV TYPES.**

9 (Y) **"VENDOR" MEANS A PERSON AUTHORIZED BY THE DEPARTMENT TO**  
10 **SELL TRAIL PERMITS.**

11 (Z) ~~(w)~~-"Visual supervision" means the direct observation of  
12 the operator with the unaided or normally corrected eye, where the  
13 observer is able to come to the immediate aid of the operator.

14 Sec. 81102. (1) A vehicle registered under the code or a  
15 vehicle registered under part 801 is exempt from the ~~licensure~~  
16 **TRAIL PERMIT** provisions of this part, unless the vehicle is  
17 operated as an ORV off highways, roadways, streets, and forest  
18 roads.

19 (2) An ORV operated solely on private property by the owner of  
20 the property, a family member of the owner, or an invited guest of  
21 the owner is exempt from the ~~licensure~~**TRAIL PERMIT** provisions of  
22 this part.

23 Enacting section 1. This amendatory act takes effect October  
24 1, 2012.

25 Enacting section 2. This amendatory act does not take effect  
26 unless all of the following bills of the 96th Legislature are  
27 enacted into law:

1 (a) Senate Bill No. \_\_\_\_\_ or House Bill No. 5615 (request no.  
2 03046'11 \*).

3 (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 5613 (request no.  
4 03046'11 b \*).

5 (c) Senate Bill No. \_\_\_\_\_ or House Bill No. 5612 (request no.  
6 03046'11 c \*).