

# HOUSE BILL NO. 4529

March 17, 2021, Introduced by Reps. Eisen and Outman and referred to the Committee on Natural Resources and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 81133 (MCL 324.81133), as amended by 2018 PA 206.

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

1           Sec. 81133. (1) An individual shall not operate an ORV **as**  
2 **described in any of the following:**

3           (a) At a rate of speed greater than is reasonable and proper,  
4 or in a careless manner, having due regard for **the existing**

1 conditions. ~~then existing.~~

2 (b) During the hours of 1/2 hour after sunset to 1/2 hour  
3 before sunrise ~~without displaying~~ **except with** a lighted headlight  
4 and lighted taillight. The requirements of this subdivision are in  
5 addition to any applicable requirements of section 81131(12).

6 (c) ~~Unless~~ **If** the vehicle is **not** equipped with a braking  
7 system ~~that may be operated~~ **operable** by hand or foot ~~,~~ **and** capable  
8 of producing deceleration at 14 feet per second on level ground at  
9 a speed of 20 miles per hour; a brake light ~~,~~ **that is** brighter than  
10 the taillight ~~,~~ **and is** visible from behind the vehicle when the  
11 brake is activated, if the vehicle is operated during the hours of  
12 1/2 hour after sunset and 1/2 hour before sunrise; and a throttle  
13 so designed that when the pressure used to advance the throttle is  
14 removed, the engine speed ~~will~~ immediately and automatically ~~return~~  
15 **returns** to idle.

16 (d) In a state game area or state park or recreation area,  
17 except on roads, trails, or areas designated for this purpose,  
18 notwithstanding section 72118; on other state-owned lands under the  
19 control of the department where the operation would be in violation  
20 of rules promulgated by the department; in a forest nursery or  
21 planting area; on public lands posted or reasonably identifiable as  
22 an area of forest reproduction, ~~and~~ when growing stock may be  
23 damaged; in a dedicated natural area of the department; or in any  
24 area in such a manner as to create an erosive condition, or to  
25 injure, damage, or destroy trees or growing crops. However, the  
26 department may permit ~~an~~ **a property** owner and guests of the owner  
27 to use an ORV within the boundaries of a state forest in order to  
28 access the owner's property.

29 (e) On the frozen surface of public waters within 100 feet of

1 an individual not in or ~~upon~~**on** a vehicle, or within 100 feet of a  
2 fishing shanty or shelter or an area that is cleared of snow for  
3 skating, ~~purposes,~~ except at the minimum speed required to maintain  
4 controlled forward movement of the vehicle, or as ~~may be~~ authorized  
5 by **a permit in special events. for a special event.**

6 (f) ~~Unless~~**If** the vehicle is **not** equipped with a spark  
7 arrester type United States Forest Service--approved muffler, in  
8 good working order and in constant operation. Exhaust noise  
9 emission shall not exceed 86 Db(A) or 82 Db(A) on a vehicle  
10 manufactured after January 1, 1986, when the vehicle is under full  
11 throttle, traveling in second gear, and measured 50 feet at right  
12 angles from the vehicle path with a sound level meter that meets  
13 the requirement of ANSI S1.4 1983, using procedure and ancillary  
14 equipment therein described; or 99 Db(A) or 94 Db(A) on a vehicle  
15 manufactured after January 1, 1986, or that level comparable to the  
16 current sound level as provided for by the United States  
17 Environmental Protection Agency when tested according to the  
18 provisions of the current SAE J1287, June 86 test procedure for  
19 exhaust levels of stationary motorcycles, using sound level meters  
20 and ancillary equipment therein described. A vehicle subject to  
21 this part, manufactured or assembled after December 31, 1972 and  
22 used, sold, or offered for sale in this state, shall ~~conform to~~  
23 **comply with** the noise emission levels established by the United  
24 States Environmental Protection Agency under the noise control act  
25 of 1972, 42 USC 4901 to 4918.

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

29 (i) On property owned by ~~or~~**the operator**, under the operator's

1 control, or on which the operator is an invited guest.

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

7 (h) ~~In or upon the lands of another without~~ **On land owned by**  
8 **another person, except with** the written consent of the owner, the  
9 owner's agent, or a lessee, ~~when if~~ required by part 731. The  
10 operator of the vehicle is liable for damage to private property  
11 caused by operation of the vehicle, including, but not limited to,  
12 damage to trees, shrubs, or growing crops, injury to other living  
13 creatures, or erosive or other ecological damage. The owner of the  
14 private property may recover from the ~~individual responsible~~ **ORV**  
15 **operator** nominal damages of not less than the amount of damage or  
16 injury. **Consent to ORV use on private property is not implied by**  
17 **either of the following:**

18 (i) Failure to post ~~private property~~ or to fence or otherwise  
19 enclose **the private property** in a manner to exclude intruders. ~~or~~

20 (ii) **Failure** of the private property owner or other authorized  
21 person to personally communicate against trespass. ~~does not imply~~  
22 ~~consent to ORV use.~~

23 (i) In an area on which public hunting is permitted during the  
24 regular November firearm deer season, from 7 a.m. to 11 a.m. and  
25 from 2 p.m. to 5 p.m., except as follows:

26 (i) During an emergency.

27 (ii) For law enforcement purposes.

28 (iii) To go to and from a permanent residence or a hunting camp  
29 otherwise inaccessible by a conventional wheeled vehicle.

1 (iv) To remove legally harvested deer, bear, or elk from public  
 2 land. An individual shall operate an ORV under this subparagraph at  
 3 a speed not exceeding 5 miles per hour, using the most direct route  
 4 that complies with subdivision (n).

5 (v) To conduct necessary work ~~functions~~ involving land ~~and or~~  
 6 timber survey, communication ~~and or~~ transmission line patrol, or  
 7 timber harvest operations.

8 (vi) On property owned or under control of the operator or on  
 9 which the operator is an invited guest.

10 (vii) While operating a vehicle registered under the code on a  
 11 private road capable of sustaining automobile traffic or a street,  
 12 county road, or highway.

13 (viii) If the individual holds a valid permit to hunt from a  
 14 standing vehicle issued under part 401 or is a person with a  
 15 disability using ~~an~~ **the ORV on a designated trail or forest road** to  
 16 access public lands for purposes of hunting or fishing. ~~through use~~  
 17 ~~of a designated trail or forest road. An individual holding a valid~~  
 18 ~~permit to hunt from a standing vehicle issued under part 401, or a~~  
 19 ~~person with a disability using an ORV to access public lands for~~  
 20 ~~purposes of hunting or fishing,~~ **The individual** may display **on the**  
 21 **ORV** a flag, the color of which the department shall determine, to  
 22 identify himself or herself as a person with a disability or an  
 23 individual holding a permit to hunt from a standing vehicle under  
 24 part 401.

25 (j) Except as otherwise provided in section 40111, while  
 26 transporting on the vehicle ~~a~~ **either of the following:**

27 (i) **A** bow, unless **the bow is** unstrung or encased. ~~, or a~~

28 (ii) **A** firearm, unless **the firearm is** unloaded and securely  
 29 encased ~~, or is~~ **is** equipped with and made inoperative by a

1 manufactured keylocked trigger housing mechanism.

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

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

7 (m) On an operating or nonabandoned railroad or railroad  
8 right-of-way, or public utility right-of-way, other than for the  
9 purpose of crossing at a clearly established site intended for  
10 vehicular traffic. ~~except~~ **This subdivision does not apply to**  
11 railroad, public utility, or law enforcement personnel while in  
12 performance of their duties, and except if the right-of-way is  
13 designated as provided for in section 81127.

14 (n) In or ~~upon~~**on** the waters of any stream, river, bog,  
15 wetland, swamp, marsh, or quagmire, except over a bridge, culvert,  
16 or similar structure.

17 (o) To hunt, pursue, worry, kill, or attempt to hunt, pursue,  
18 worry, or kill an animal. ~~whether wild or domesticated.~~

19 (p) In a manner ~~so as to leave~~ **that leaves** behind litter or  
20 other debris.

21 (q) On public land ~~in~~ a manner contrary to operating  
22 regulations.

23 (r) While transporting or possessing, in or on the vehicle,  
24 alcoholic liquor in a container that is open or uncapped or ~~upon~~**on**  
25 which the seal is broken, except under either of the following  
26 circumstances:

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

29 (ii) If the vehicle does not have a trunk or compartment

1 separate from the passenger compartment, the container is encased  
2 or enclosed.

3 (s) ~~While transporting any passenger in or upon an ORV~~ **With a**  
4 **passenger** unless the manufacturing standards for the vehicle ~~make~~  
5 ~~provisions for transporting~~ **provide for** passengers.

6 (t) On adjacent private land, in an area zoned residential,  
7 within 300 feet of a dwelling, **and** at a speed greater than the  
8 minimum required to maintain controlled forward movement of the  
9 vehicle except under any of the following circumstances:

10 (i) On a forest road or forest trail if the forest road or  
11 forest trail is maintained by or under the jurisdiction of the  
12 department.

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

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

17 (2) An individual who is operating or is a passenger on an ORV  
18 shall wear a crash helmet and protective eyewear that are approved  
19 by the United States Department of Transportation. This subsection  
20 does not apply to any of the following:

21 (a) An individual who owns the property on which the ORV is  
22 operating, is a family member of the owner and resides at that  
23 property, or is an invited guest of an individual who owns the  
24 property. An exception under this subdivision does not apply to any  
25 of the following:

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

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

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

4           (b) An individual wearing a properly adjusted and fastened  
5 safety belt if the ORV is equipped with a roof that meets or  
6 exceeds United States Department of Transportation standards for a  
7 crash helmet.

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

10           (d) An ORV operated for the purpose of towing a fishing shanty  
11 or supply shed over the frozen surface of public waters at the  
12 minimum speed required to maintain controlled forward movement of  
13 the vehicle or while traveling to and from a fishing shanty at a  
14 speed of not greater than 10 miles per hour. An owner of private  
15 property is not liable for personal injuries, including death, to  
16 an individual who operates an ORV as described in this subdivision  
17 without wearing a helmet while traveling on the owner's property.

18           **(e) The operator of or a passenger on an ORV with 4 or more**  
19 **wheels if the operator has a motorcycle indorsement under section**  
20 **312a of the Michigan vehicle code, 1949 PA 300, MCL 257.312a, on**  
21 **his or her operator's or chauffeur's license.**

22           (3) Each person who participates in the sport of ORV riding  
23 accepts the risks associated with that sport insofar as the dangers  
24 are inherent. Those risks include, but are not limited to, injuries  
25 to persons or property ~~that can result~~ **resulting** from variations in  
26 terrain; defects in traffic lanes; surface or subsurface snow or  
27 ice conditions; bare spots; rocks, trees, and other forms of  
28 natural growth or debris; and collisions with fill material, decks,  
29 bridges, signs, fences, trail maintenance equipment, or other ORVs.



1 Those risks do not include injuries to persons or property ~~that~~  
2 ~~result~~**resulting** from the use of an ORV by another person in a  
3 careless or negligent manner likely to endanger **a** person or  
4 property. When an ORV is operated in the vicinity of a railroad  
5 right-of-way, each person who participates in the sport of ORV  
6 riding ~~additionally~~ assumes risks including, but not limited to,  
7 entanglement with railroad tracks, switches, and ties and  
8 collisions with trains and train-related equipment and facilities.