

Allegan County

Administrator

Robert J. Sarro



County Services Building

3283 – 122nd Avenue

Allegan, MI 49010

269.673.0203

MEMORANDUM

July 17, 2020

TO: Board of Commissioners

RE: Off Road Ordinance (ORV)

A County-Wide ORV Ordinance was considered in 2014. Through Board action it was determined such will not be pursued at the County level. At the request of citizens during public comment and through email and ultimately at the request of Commissioner Kapenga, the Board has set this matter as a discussion item for July 23, 2020.

In preparation for the discussion, each agency that was asked to provide input during the 2014 process was again asked to review the information and either confirm the previous information/positions remain valid or provide an updated perspective.

The following represents the responses received: (for convenience the original 2014 information has been attached)

Received July 2, 2020, from Brandy Gildea, Parks Manager:

After reviewing the materials and the Parks Commission's (now Parks Advisory Board) 2014 recommendation, I am not aware of changes in the rationale its supplied that would lead to a change at this time.

Received July 6, 2020, from Mike Larsen, Undersheriff:

Regarding ORV's in Allegan County, the Sheriff's Office maintains that we do not have adequate resources to properly patrol, enforce, or respond to complaints regarding usage of ORV's. State surveys show that a large percentage of citizens feel ORV's create unacceptable damage to the environment. This would more than likely result in property damage complaints in right of ways that border private property. Further, it is illegal to cross state or federal roadways even if an ordinance existed. This would result in violations at every occurrence. We also believe that safety on the roadways for all users would significantly decrease due to the lack of proper equipment such as lighting, turn signals, horns, etc. Lastly, DNR grant monies for enforcement of recreational programs has steadily decreased, leaving the bulk of costs for staffing and equipment at the local level.

For the reasons outlined above, we cannot support the prospect of an ordinance that would allow usage of ORV's off of private property in Allegan County. Please let me know if you need further discussion.

Received July 6, 2020, from Myrene Koch, Prosecuting Attorney:

I agree with Undersheriff Larsen. Most ORV's also lack seat belts which can pose significant problems as well for the safety of the passengers who are often children. Please let me know if you want further information.

Received July 16, 2020, from Craig Atwood, Road Commission Director:

The Road Commission reviewed the materials during its regular Commission meeting on July 15, 2020, and confirmed the position provided in 2014.

Review of Board Action
Off-Road Recreational Vehicles

2-13-14 Board Meeting

OFF-ROAD RECREATIONAL VEHICLES - PERMIT ON COUNTY ROADS

13/ Joshua Driscoll, Heath Township resident addressed the number of signatures he gathered of people who support allowing ORVs on county roads. He stated that our citizens have to travel up to an hour to get to an area that permits ORVs. Areas which allow ORV use have seen benefits to the economy and he urges the Board to consider this for Allegan County.

Chairman DeYoung referred this to the Parks Commission to review and give their opinion.

4-24-14 Board Meeting

Off Road Vehicles (ORV) on County Roads (Parks & Road Commissions).

SUMMARY: On February 13, 2014, a request was received from a Heath Township resident to allow ORVs on County roads. The Board of Commissioners referred this matter to the Road Commission and Parks Commission for advisement. Both Boards have reviewed and oppose support of this request due to safety concerns; see official statements in the Board packet.

OFF ROAD VEHICLES ON COUNTY ROADS - PUBLIC COMMENT

15/ Chairman DeYoung asked if there were individuals who wished to address the ORV issue and the following individuals appeared and spoke in support of allowing ORVs on county roads:

Ed Boeve, Hamilton
Joel Sprik, 5120 130th Avenue
Todd Orvey, Holland
Josh Driscoll, Hamilton
Jamison Burchfield, 4570 Byron Road
Steve Schulz, Allegan Township

OFF ROAD VEHICLES ON COUNTY ROADS

15.1/ Moved by Commissioner Storey, seconded by Commissioner Kapenga to receive input on the ORV issue from the Tourist Council and the Economic Development Commission.

Moved by Commissioner Campbell, seconded by Commissioner Kapenga to amend the motion to communicate with counties that are close to our size where this is being done, and we need to poll the townships first since they have the ability to make this determination themselves and each Commissioner is to poll their districts and bring the information back. The motion carried.

The motion as amended was carried and the discussion will be put on the June 26, 2014 agenda.

6-26-14 Board Meeting

AGENDA - ADDITIONS

9/ Chairman DeYoung asked if there were any additions or changes to the agenda. Commissioner Campbell asked to have the ORV issue removed from this agenda and set on the agenda for the second meeting in July.

Moved by Commissioner Campbell, seconded by Commissioner Kapenga to adopt the changes to the meeting agenda as requested. Motion carried by roll call vote: Yeas - 6 votes. Nays - 1 votes. Absent - 0 votes.

Y	DEAN KAPENGA	Y	TOM JESSUP
Y	JIM STOREY	Y	JON CAMPBELL
N	MAX THIELE	Y	DON BLACK
Y	MARK DEYOUNG		

OFF ROAD VEHICLES - REMOVE FROM THE TABLE

18/ Moved by Commissioner Campbell, seconded by Commissioner Storey to remove the Off Road Vehicle issue from the table for consideration. Motion carried.

OFF ROAD VEHICLES - TAKE NO ACTION

19/ Moved by Commissioner Storey, seconded by Commissioner Kapenga to take no action regarding development of an ordinance to allow off road vehicles to travel on county road. Motion carried.

July 24, 2014 Session

Board of County Road Commissioners Of Allegan County

1308 LINCOLN ROAD

ALLEGAN, MICHIGAN 49010-9762

TELEPHONE (269) 673-2184

www.alleganroads.org

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EXTRACT COPY

The following is an extract copy of the minutes of the meeting of the Board of County Road Commissioners of Allegan County, held in the office in Allegan on Wednesday, April 2, 2014.

“It was moved by Commissioner Kaarlie and seconded by Commissioner Kleinheksel to adopt the following resolution regarding ORV Traffic on County Roads:

WHEREAS, House Bill No. 4284, House Bill No. 4299, Senate Bill No. 50 have amended 1994 PA 451 to allow a municipality to pass an ordinance authorizing the operation of ORVs on one or more streets within the municipality.

WHEREAS, the Allegan County Road Commission is responsible for the maintenance of the 512 miles of Primary Road and 1286 miles of Local Road within Allegan County.

WHEREAS, it is the opinion of the Allegan County Road Commission that allowing ORVs to operate on public roads in Allegan County will result in a reduction in safety on the public road system.

WHEREAS, while this Act authorizing ORV access on County Roads (PA 118 of 2013) does not call for additional maintenance responsibilities, and protects our governmental immunities, a road commission’s statutory duty under the highway exception to governmental immunity (MCL691.1402) extends to ALL forms of public travel. Allowing ORVs to use county roads will increase the number of lawful users of our roads and increase our exposure to claims, especially if said county roads do not have proper accommodations for them.

WHEREAS, the potential of serious injury would likely increase if ORVs are permitted to use the roadways.

WHEREAS, claims experience bears heavily on the calculation of our Pool’s insurance costs, an increase in claims could have a negative financial effect on the road commission’s expenses.

NOW THEREFORE BE IT RESOLVED, that the Board of Allegan County Road Commissioners does not support allowing ORVs to operate on roads under the jurisdiction of the Allegan County Road Commission.

BE IT FINALLY RESOLVED, that the copies of this resolution be transmitted to the Allegan County Board of Commissioners and to all Township Boards in the County of Allegan.

ROLL CALL VOTE AYES: Commissioners Culver, Kaarlie, and Kleinheksel
NAYS: None”

I hereby certify that the above is a true extract copy of the Resolution taken from the minutes of the Board of County Road Commissioners regular meeting of April 2, 2014.


Larry Brown - Clerk



Allegan County Parks, Recreation, & Tourism

3255 122nd Avenue, Suite 103

Allegan, MI 49010

Phone: (269) 686-9088 • Fax: (269) 673-0454

Parks Web: www.allegancounty.org/Parks

Tourism Web: www.visitallegancounty.com

E-mail: parks@allegancounty.org



April 1, 2014

Human Services Building

Zimmerman Room

8:30am

Minutes of a Scheduled meeting of the Allegan County Parks and Recreation Commission

The regularly scheduled monthly meeting of the Allegan County Parks and Recreation Commission was called to order by Parks Commission Chairman Bob Kaarlie at 8:29am on Tuesday, April 1, 2014 in the Zimmerman Room located on the main level of the Human Services Building, 3255 122nd Avenue, Allegan, Michigan.

Roll Call showed the following members:

PRESENT:	Lenore Sartini	Marylne Langeance
	Larry Rasmussen	Denise Medemar
	Mark DeYoung	Dean Kapenga
	Chuck Pullen	Robert Kaarlie
	Bruce Culver	Bruce Brandon

ABSENT: None

Also Present:

- Dan Wedge, Executive Director of County Services
- Brandy Gildea, Parks Coordinator
- Ronda Foreman, County Development Administrative Assistant
- Bob Wakeman, County Facilities Director
- Kris Allred, Hamilton Resident
- Jan West, Allegan Resident
- James Downing, Allegan Resident

ADDITIONS/DELETIONS TO AGENDA

None.

APPROVAL OF MARCH MEETING MINUTES

The meeting date is incorrect in the opening paragraph of the March 4, 2014 draft meeting minutes. A motion was made by Denise Medemar, seconded by Larry Rasmussen to approve the March 4, 2014 meeting minutes as amended with meeting date correction in the opening paragraph. The motion carried.

FINANCIAL STATEMENTS

The new park season has not started yet so there is nothing new to report in the financial statements. Dan reports the Gun Lake Park pavilion is badly worn and needs to be replaced. Winter damage can be found throughout the parks, primarily a lot of branches down.

A motion was made by Maryln Langeance, seconded by Bruce Brandon to approve the April financial reports as presented. The motion carried.

PUBLIC PARTICIPATION

Jan West, owner of Wild West Ranch in Allegan, is present; Wild West Ranch is a riding stable located near the equestrian trail system and Silver Creek Park area. Larry stated Jan was told she could obtain a Commercial Use Permit allowing her to take groups on the ETS; in early March she submitted a verbal request to the Parks office. Before proceeding with the permit, Ronda looked over the lease agreement between Allegan County and the DNR where there was verbiage addressing commercial use on the trails. She then contacted Mark Mills at the DNR State Game Area Headquarters who stated they plan to deny all Commercial Use Permit requests however the Parks Commission can issue a permit for commercial use on the six miles of county-owned trails located within the Silver Creek Park boundary providing the boundary onto state land is not crossed. Jan was informed of the DNR's response and advised to contact Mark Mills who informed her that a Commercial Use Permit application can be submitted to the State however would include a \$50 application fee.

Larry stated this was already discussed and approved by the Parks Commission in the past; Ronda recalled having discussions but does not recall a motion to approve a request nor has she ever received a formal request for a Commercial Use Permit in the trail system. Over the past six months Kris and Ronda have received inquiries on behalf of Wild West Ranch however cannot be approved until a formal request is received prior to the issuance of any use permit. Dan stated we need to look at the lease agreement and see where we legally stand; Dean asked minutes be researched to see if anything had been done during past meetings.

A motion was made by Larry Rasmussen, seconded by Chuck Pullen to table the Commercial Use Permit discussion until the May meeting once research of past meetings minutes and review of the lease agreement has been completed. The motion carried.

UNFINISHED BUSINESS

BLUE STAR TRAIL

Included in today's agenda packet is a summary of Brandy's research regarding the ORV agenda item, and Dan has asked her to do the same for the Blue Star Trail matter so we can make recommendation to the Board of Commissioners. He stated the biggest issue is still the ownership of the trail between South Haven and Saugatuck/Douglas and long-term maintenance responsibilities. Bruce Culver reports the Road Commission was informed one township is opposed to the trail and does not want it whereas other townships are on board with the project. He stated the Road Commission will definitely not take any ownership so is up to the County. Bruce Brandon stated Casco Township is for the trail but cannot support it financially. Brandy will research other counties and put together a summary to present at the next meeting.

WEST SIDE PARK GRANT UPDATE

Brandy is working to get the contract with MC Smith secured within the next couple weeks for the West Side Park project; currently bids are scheduled to go out in the fall with anticipated start date spring of 2015. Dan stated the longer schedule provides for more time to get things prepared. Bruce Culver stated there may be time to do some work in the fall to get the project going. Dan asked Brandy to look into the earlier time schedule to check what can be done in the fall and continued in the spring; if feasible this will most likely be a part of the contract Brandy is finalizing before submitting it for approval to the BOC later this month.

OFF ROAD VEHICLES (ORV) ON COUNTY ROADS

As previously mentioned, included in the agenda packet is background information Brandy researched and collected regarding the legislation and the State's position for ORV usage on county roads along with how other counties in the state are responding to the new law. She found most counties who are approving ORV usage on their county roads already have established trails and lots of state & federal forest lands.

Mark Mills from the Allegan State Game Area Headquarters could not be in attendance today however he informed Brandy the DNR does not allow us or will they allow use of ORV's in the State Game Area; those areas are funded by license sales and the federal Pittman/Robertson funds (tax on guns, ammo, bows, etc.). The state has left it up to the counties to make a decision regarding usage on their roads. Mark stated the townships have the ability to form their own ORV ordinance; Hopkins will probably change their ordinance because it works in their area with folks who want to use ATVs to run to the corner store. They also have their own police patrol to address enforcement issues. The BOC wants a recommendation from the Parks Commission.

A motion was made by Bruce Culver, seconded by Bruce Brandon that at this time the Parks Commission does not support a resolution allowing off-road recreational vehicle usage on county roads due to the lack of resources and the Department of Natural Resources assertion ORV usage permits will not be issued in the Allegan State Game Area; per state law, townships within Allegan County have ability to change their local ordinance. The motion carried.

NEW BUSINESS

PARKS OPENING UPDATE

Brandy reports the Silver Creek Park Manager position has been posted with an application deadline of Friday, April 11th. Next week on Thursday, April 10th the seasonal park staff meeting will be held; no official park opening date has been determined, hopefully the first of May. Clean-up at Silver Creek Park is anticipated to begin by the end of this week. Lenore asked if the campground will be plowed for the Benefit Ride on April 19th if roads are still covered by snow and ice; Bob Wakeman stated no however they will take a look at the road conditions in the next couple weeks. He reports all the seasonal staff is returning with the exception of Kris. The pavilion roof at Gun Lake Park will be measured for replacement and damage from the Gun Lake Winterfest held in February will be assessed. There are reports of turf damage near the parking lot when it was plowed for the festival, also damage to a couple of the picnic tables. Bob will have it checked out and will contact organizers regarding the damage. His intent is to change his focus from the construction of the jail to the county parks.

NEXT MEETING- JOINT MEETING WITH THE TOURIST COUNCIL ON TUESDAY, MAY 6, 2014 @ 10AM IN THE ZIMMERMAN TRAINING ROOM.

ROUND TABLE DISCUSSION

Kris Allred stated in the winter she stores some parks' items in her shed at home; she will turn everything over to staff at Silver Creek once they start clean-up.

Chuck Pullen asked a thank you letter be sent again to Dr Connell and his wife for printing the equestrian trail maps for free distribution to users. He also added regarding the commercial use permit for Jan West, if we find information to approve her request, she should be informed before the next meeting so she can make plans.

ADJOURNMENT

With no further business to discuss, a motion was made by Larry Rasmussen, seconded by Lenore Sartini to adjourn the meeting at 9:37am. The motion carried.

By: _____

Ronda Foreman

County Development Administrative Assistant

April 1, 2014 Parks Agenda Item #9
Off Road Vehicles (ORV) on County Roads Supplement Information

ORV Trail Information

Info about the Michigan Legislature on ORV's:

LANSING, Mich. - Local governments may now seek permission from the state Department of Transportation (MDOT) to allow off-road recreational vehicles (ORV) on the shoulders of state roads where necessary to connect existing ORV networks after Gov. Rick Snyder signed three bills into law today. Local governments across the entire state also will now have the option of opening their own roads to such access.

"These measures will make it easier to enjoy off-road vehicles in our state, and will enhance tourism in Pure Michigan," Snyder said.

House Bill 4284, sponsored by state Rep. Joel Johnson, establishes criteria and deadlines for MDOT's consideration of these requests. The bill also lets the department decide whether to allow ORV shoulder riding on designated highways (not including Interstates), and establish criteria for designating highways. It is now Public Act 117 of 2013.

HB 4299, sponsored by state Rep. Jon Bumstead, allows all 83 Michigan counties to seek ORV road access. Formerly only select counties in northern Michigan had the privilege. The bill also contains numerous requirements for safe operation of ORVs, including considering ORV operators negligent if involved in an accident with a traditional road vehicle. It is now PA 118.

Senate Bill 50, sponsored by state Sen. Tom Casperson, expands the current list of activities where an ORV license is not required, provides interstate ORV license reciprocity, allows the Department of Natural Resources to establish free riding days, and allows the department to exempt certain events from needing a permit. It is now PA 119.

Public Act No. 118 of 2013 - Major Changes

Approved by the Governor, September 25, 2013, Filed with the Secretary of State September 25, 2013, EFFECTIVE DATE: September 25, 2013, STATE OF MICHIGAN 97TH LEGISLATURE REGULAR SESSION OF 2013, Introduced by Reps. Bumstead, Genetski and Franz. ENROLLED HOUSE BILL No.4299

This Bill allows all 83 counties to seek ORV access. Formally only select Counties in Northern Michigan had the privilege. The bill also contains numerous requirements for safe operation of ORVs, including considering ORV operators negligent if involved in an accident with a traditional road vehicle.

What local governments need to consider in order to adopt an ORV ordinance:

- What is the process for adopting a county ORV ordinance?
 - The county clerk must send notice of a public hearing on a proposed ordinance by certified mail to the county road commission and to the DNR (only if state forestland is located in the county) at least 45 days before the public hearing held by the county board of commissioners. However, the county board of commissioners is not obligated to abide by any recommendation of the county road commission or the DNR in adopting an ordinance.
- What authority does the county road commission have?
 - A county road commission may close up to 30% of the linear miles of roads in the county to ORVs in response to a particular and demonstrable threat to public safety

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Off Road Vehicles (ORV) on County Roads Supplement Information

or to protect the environment. The 30% applies to the total linear miles of county roads, not 30% of the linear miles of roads open to ORVs.

- What authority do cities, villages and townships have?
 - A city or village may open or close its streets to ORVs at any time. No notification to other agencies or units of government is required. A township may close its streets or roads to the operation of ORVs that were opened by the township or county at any time with no notification to other agencies or units of government. If the county does not adopt an ORV ordinance including a particular township, that township may adopt its own ORV ordinance no sooner than 1 year following the effective date of the act. Notification is the same as required of the county except that the notification period is shortened to 30 days.
- What liability do local governments have?
 - Local governments do not have a duty to maintain roads or streets in a condition safe and convenient for the operation of ORVs except as otherwise required by law. Local governments are immune from tort liability except for gross negligence (conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results).
- What is the ORV fund?
 - The treasurer of the local unit of government adopting an ORV ordinance shall establish a fund to receive fines and damages imposed as a result of violations of the ordinance. The legislative body of that local unit shall appropriate 50% of the revenue in the fund to the county sheriff or local police department for ORV enforcement and training. The legislative body of that local unit shall appropriate the remaining 50% to the county road commission or local public works office (city and village only) for repairing damage to the environment, roads, streets or other public property caused by ORVs and/or to post signs indicating ORV speed limits or whether a road or street is open or closed to ORVs.

***** ORV Operation on State-Owned Lands:**

State Forest Lands: ORV restrictions vary by location.

- **Upper Peninsula:** ORV operation is permitted on designated trails and forest roads in the Upper Peninsula unless posted as closed.
-
- **Lower Peninsula:** ORV operation is permitted on all designated trails, designated areas, and designated routes (forest roads that are designated for ORV use) in the Lower Peninsula.
-
- **Statewide:** ORV use on designated trails is limited to vehicles with an overall width of less than 50 inches. Off-trail or off-route operation outside of a designated area is prohibited except for hunters operating an ORV at speeds of 5 mph or less for the purpose of removing deer, bear, or elk.

State Game Areas: All motorized vehicle operation is prohibited except on established roads open to the public. *ORVs are specifically prohibited.* These areas are found primarily in the southern third of Michigan.

State Parks and State Recreation Areas: ORV operation is prohibited in all state parks and recreation areas except in designated areas of Silver Lake State Park.

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Off Road Vehicles (ORV) on County Roads Supplement Information

***** ORV Operation on National Forest Lands:**

In all national forests, motor vehicles can be used only on roads, trails, or areas that are designated as open. This includes all motorized wheeled vehicles from ATVs to street-legal vehicles.

***** Prohibited ORV Operation on Other Lands:**

Roads, streets, and highways maintained for year-round automobile travel are closed to ORV operation, including the shoulder and the right-of-way. (That is, the entire width between boundary lines of public ways maintained for vehicular travel is closed to ORVs.) However, ORVs registered as motor vehicles by the Secretary of State may be operated on the roadway.

ORVs may be operated on a roadway in accordance with a locally enacted ordinance. The ORV rider is responsible for contacting the local authorities to find out which roadways are open to ORV use.

Private land is closed to ORV operation, except for use by the landowner and the landowner's invited guests. *The failure of a landowner to post or fence private property against ORV use does not imply consent to ORV operation.*

***** The handbook of Michigan Off-Road Vehicle Laws:** https://www.offroad-ed.com/assets/pdf/handbook/mi_handbook_entire.pdf

Feedback/ Responses from Following Counties:

Clinton County:

Clinton County does not have an Ordinance allowing for ORV's on county roads.

Mason County:

Mason County had some discussion on this subject when the law first come up allowing ORV on county roads but it quickly went a different route, that being the Townships. We have 11 of our 15 townships that have passed an ORV Ordinance and they police it themselves. Some apprehension at first but it has worked out with very little problems being reported. When there is a problem, the Township is notified and they address it promptly, usually by informing the problem suspects that this privilege could disappear quickly if they don't adhere to the ordinance.

Muskegon County

At this time there are no requests that I am aware of to create a trail system along Muskegon County roads. I am hoping that continues but at some juncture I am certain it will happen.

Oakland County:

No ordinance for ORV riding. Working with the DNR to establish an ORV park in the future.

Oceana County:

This was subject of discussion in Oceana County in 2011. Be advised that the Oceana County Board of Commissioners, at its Regular Meeting of Thursday, October 13, 2011 accepted the

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Off Road Vehicles (ORV) on County Roads Supplement Information

recommendation of the Oceana County Planning Commission to not pursue a countywide ORV ordinance.

The Oceana County Board of Commissioners is not opposed to ORV use; rather, the Board feels that such a decision is best left to the individual townships for the following reasons:

- Townships have the authority to adopt an ordinance authorize ORV use;
- Townships have the knowledge as to the “needs and wants” of their constituents
- Townships have the knowledge as to which roads, if any, are suited to ORV use;
- A county-wide “one size fits all” type of ordinance regarding ORVs is not practical as the east side of the county differs substantially from the west side of the county.

Osceola County:

In Osceola County, each township decided what they wanted for ORVs. We do not allow the ORVs in the park except on trailers if camping. Take the time to look at impacts that these ORVs could have on your park and if you have a way to supervise on a 24-7 basis. Keeping the ORVs on the designated trails is a problem. Noise can carry and interferes with quiet areas.

Oscoda County;

Oscoda County is currently open to ORV traffic on almost all county maintained roads (a few closures due to safety reasons). Our trails are 50” wide and we have approximately 230+ miles of trails. We also connect to MCCCT system which has around 689 miles of trails for ORV traffic. ORV’s can use the county roads to go from trail to trail or to gas stations, restaurants, etc.. Damages to county roads (especially primary road shoulders) have been escalating every year since the inception of the ORV ordinance and are getting noticed by the public who have to use the road for economic reasons. Only time will tell what will happen when the silent majority of public opinion intervenes. We try to keep up with the repairs but all this does is pull our resources away from other road repair responsibilities to fix these nuisance ORV damages. If only the ORV’s would abide by the ordinances speed limit.

St. Clair County:

St. Clair County has not had any discussions about opening our road rights of way to ORVs.

Van Buren County:

Van Buren County has not taken a position on the use of the right of way by ORV’s at this time. The unofficial position of the Road Commission is that the use of said ORV’s on the system will only serve to further deteriorate the already failing road network and thus they are not in favor of passing of an ordinance which many northern counties have done. Informally, several of our County Commissioners as well have concurred that to allow them full access as can be allowed with an ordinance would be a disservice to the tax payers who pay a 1 mil property tax county wide for roads.

Counties with ORV ordinances:

Emmet County:

<http://www.emmetcounty.org/uploads/126278809009-02-ORV.pdf>

Gladwin County:

<http://www.gladwinco.com/Postings/ORVOrdinance.pdf>

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Iosoc County:

<http://iosco.m33access.com/parks/ORVordinance.pdf>

Lake County:

<http://www.newkirktownship.com/Lake%20County%20ORV%202012.pdf>

Mecosta County:

<http://www.co.mecosta.mi.us/Sheriff/MC-ORVOrdinance.pdf>

Missaukee County:

<http://www.missaukee.org/docs/orv.htm>

Newaygo County:

<http://www.countyofnewaygo.com/Resources/SheriffsDepartment/Newaygo%20County%20ORV%20Ordinance.pdf>

Oscoda County (also see response above)

<http://www.oscodacountymi.com/PDFs/ORVOrdinance.pdf>

Roscommon County:

<http://www.roscommoncounty.net/wp-content/uploads/ORV-brochure.pdf>

Conclusions/Things to Consider:

1. Counties that have an ORV ordinance:
 - a. Have National or State Forest Land
 - i. ORV's are permitted on roads/designated trails in these areas
 - b. Have established ORV trails
 - c. Have low traffic volume
2. All motorized vehicle operation is prohibited except on established roads open to the public in State Game areas. ORVs are specifically prohibited. DNR has a strong stance on this issue. The reason ORV's are restricted in the State Game Area has to do with their designation of this land for hunting and wildlife habitat as well as their funding through license sales and the federal Pittman/Robertson funds (tax on guns, ammo, bows, etc.).
3. Things to ask yourself when considering adopting an ORV Ordinance
 - a. Where are riders going to and from?
 - b. Will adopting an ORV Ordinance increase tourism/economy if there are no additional established trails or trail heads?
 - i. Where will people park/unload ORV's?
 - c. What damages will this cause to roads/roads shoulders?
 - i. Who will maintain these areas
 - ii. Who will pay for these costs
 - d. How much additional noise pollution will they cause?
 - e. Will Allegan County eventually have established ORV trails?

Act No. 117
Public Acts of 2013
Approved by the Governor
September 25, 2013
Filed with the Secretary of State
September 25, 2013
EFFECTIVE DATE: September 25, 2013

**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2013**

Introduced by Rep. Johnson

ENROLLED HOUSE BILL No. 4284

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to protect the people's right to hunt and fish; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending section 81131 (MCL 324.81131), as amended by 2011 PA 107.

The People of the State of Michigan enact:

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

(2) Subject to subsection (4), the county board of commissioners of an eligible county may adopt an ordinance authorizing the operation of ORVs on 1 or more county roads located within the county. Not less than 45 days before a public hearing on the ordinance, the county clerk shall send notice of the public hearing, by certified mail, to the county road commission, to the legislative body of each township and municipality located within the county, to the state transportation department if the road intersects a highway, and, if state forestland is located within the county, to the department.

(3) Subject to subsection (4), the legislative body of a township or municipality located in an eligible county may adopt an ordinance authorizing the operation of ORVs on 1 or more county roads located within the township or municipality, respectively. Not less than 28 days before a public hearing on the ordinance, the clerk of the township or municipality shall send notice of the public hearing, by certified mail, to the county road commission, to the county board of commissioners, to the legislative body of every other township and municipality located within the county, to the state transportation department if the road intersects a highway, and, if state forestland is located within the township or municipality, to the department. This subsection does not apply to a township or municipality until 1 year after the effective date of the amendatory act that first defined eligible county so as to include the county in which that township or municipality is located.

(4) The board of county road commissioners may close a county road to the operation of ORVs under subsection (2) or (3) to protect the environment or if the operation of ORVs under subsection (2) or (3) poses a particular and demonstrable threat to public safety. A county road commission shall not under this subsection close more than 30% of the linear miles of county roads located within the county to the operation of ORVs under subsection (2) or (3). The legislative body of a township or municipality located in an eligible county may adopt an ordinance to close a county road located in the township or municipality to the operation of ORVs under subsection (2). The legislative body of a village may adopt an ordinance to close a county road located in the village to the operation of ORVs otherwise authorized under subsection (3).

(5) The legislative body of a municipality located in an eligible county may adopt an ordinance authorizing the operation of ORVs on 1 or more streets within the municipality.

(6) The legislative body of a local unit of government may request the state transportation department to authorize the local unit of government to adopt an ordinance authorizing the operation of ORVs on a highway, other than an interstate highway, located within the local unit of government. The request shall describe how the authorization would meet the requirements of subsection (7). The state transportation department shall solicit comment on the request from the department, ORV clubs, and local units of government where the highway is located. The state transportation department shall consider comments received on the request before making a decision on the request. The state transportation department shall grant the request in whole or in part or deny the request not more than 60 days after the request is received. If the state transportation department grants a request in whole or in part under this subsection, the local unit of government that submitted the request may adopt an ordinance authorizing the operation of ORVs on the highway that was the subject of the request. A county may submit a request for authorization under this subsection on behalf of 1 or more local units of government located within that county if requested by those local units of government. Before January 1, 2015, the state transportation department may authorize the operation of ORVs on a highway as provided in this subsection and subsection (7) on the department's initiative and without having received a request from a local unit of government.

(7) The state transportation department shall authorize operation of an ORV under subsection (6) only on a highway that is not an interstate highway and that meets 1 or more of the following requirements:

(a) Serves as a connector between ORV areas, routes, or trails designated by the department or an ORV user group.

(b) Provides access to tourist attractions, food service establishments, fuel, motels, or other services.

(c) Serves as a connector between 2 segments of the same county road that run along discontinuous town lines and on which ORV use is authorized pursuant to subsection (2) or (3).

(d) Includes a bridge or culvert that allows an ORV to cross a river, stream, wetland, or gully that is not crossed by a county road or street on which ORVs are authorized to operate under subsection (2), (3), or (5).

(8) The state transportation department may close a highway to the operation of ORVs otherwise authorized pursuant to subsection (6) after written notice to the clerk of each local unit of government where the highway is located and the senate and house committees with primary responsibility for natural resources, recreation, and transportation. The notice shall be in writing and sent by first-class United States mail or personally delivered not less than 30 days before the adoption of the rule or order closing the highway. The notice shall set forth specific reasons for the closure.

(9) Subject to subsection (4), if a local unit of government adopts an ordinance pursuant to subsection (2), (3), or (5), a person may operate an ORV with the flow of traffic on the far right of the maintained portion of the street or county road covered by the ordinance. If the operation of ORVs on a highway is authorized pursuant to subsection (6), a person may operate an ORV with the flow of traffic as follows:

(a) On the right shoulder of the highway.

(b) If there is not a right shoulder or the right shoulder is not of adequate width, on the right unmaintained portion of the highway.

(c) On the far right of the right traffic lane of the highway, if necessary to cross a bridge or culvert and if the operator brings the ORV to a complete stop before entering and yields the right-of-way to an approaching vehicle on that traffic lane.

(10) A person shall not operate an ORV as authorized pursuant to subsection (2), (3), (5), or (6) at a speed greater than 25 miles per hour or a lower posted ORV speed limit or in a manner that interferes with traffic on the street, county road, or highway.

(11) Unless the person possesses a license as defined in section 25 of the Michigan vehicle code, 1949 PA 300, MCL 257.25, a person shall not operate an ORV as authorized pursuant to subsection (2), (3), (5), or (6) if the ORV is registered as a motor vehicle under chapter II of the Michigan vehicle code, 1949 PA 300, MCL 257.201 to 257.259, and either is more than 65 inches wide or has 3 wheels. ORVs operated as authorized pursuant to subsection (2), (3), (5), or (6) shall travel single file, except that an ORV may travel abreast of another ORV when it is overtaking and passing, or being overtaken and passed by, another ORV.

(12) A person shall not operate an ORV as authorized pursuant to this section without displaying a lighted headlight and lighted taillight.

(13) A person under 18 years of age shall not operate an ORV as authorized pursuant to this section unless the person is in possession of a valid driver license or under the direct supervision of a parent or guardian and the person has in his or her immediate possession an ORV safety certificate issued pursuant to this part or a comparable ORV safety certificate issued under the authority of another state or a province of Canada. A person under 12 years of age shall not operate an ORV as authorized pursuant to this section. The requirements of this subsection are in addition to any applicable requirements of section 81129.

(14) A township that has authorized the operation of ORVs on a county road under subsection (3) does not have a duty to maintain the county road in a condition reasonably safe and convenient for the operation of ORVs. This state

does not have a duty to maintain a highway in a condition reasonably safe and convenient for the operation of ORVs. A board of county road commissioners, a county board of commissioners, or a municipality does not have a duty to maintain a county road or street under its jurisdiction in a condition reasonably safe and convenient for the operation of ORVs, except the following ORVs:

- (a) ORVs registered as motor vehicles as provided in the code.
- (b) ORVs permitted by an ordinance as provided in subsection (1).

(15) This state, a board of county road commissioners, a county board of commissioners, a county, and a municipality are immune from tort liability for injuries or damages sustained by any person arising in any way out of the operation or use of an ORV that is not registered under the code or that is registered under the code but is operated as authorized pursuant to subsection (2), (3), (5), or (6). The immunity provided by this subsection does not apply to actions that constitute gross negligence. As used in this subsection, "gross negligence" means conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.

(16) In a court action in this state, if competent evidence demonstrates that a vehicle that is permitted to operate on a road, street, or highway pursuant to the code was in a collision on a roadway with an ORV that is not registered under the code, the operator of the ORV shall be considered prima facie negligent.

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

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

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

(b) Fifty percent to the board of county road commissioners or, in the case of a city or village, to the department responsible for street maintenance in the city or village. However, if a fine was collected for a violation of an ordinance adopted under subsection (6), 50% of the fine revenue shall be appropriated to the state transportation department. Revenue appropriated under this subdivision shall be used for repairing damage to streets, county roads, or highways and the environment that may have been caused by ORVs and for posting signs indicating ORV speed limits or indicating whether streets, county roads, or highways are open or closed to the operation of ORVs as authorized pursuant to this section.

(19) A person who violates a rule promulgated or order issued under subsection (6) is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$500.00. In addition, the court shall order the defendant to pay the cost of repairing any damage to the environment, a highway, or public property as a result of the violation.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor

Act No. 118
Public Acts of 2013
Approved by the Governor
September 25, 2013
Filed with the Secretary of State
September 25, 2013
EFFECTIVE DATE: September 25, 2013

**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2013**

Introduced by Reps. Bumstead, Genetski and Franz

ENROLLED HOUSE BILL No. 4299

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to protect the people's right to hunt and fish; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending section 81131 (MCL 324.81131), as amended by 2011 PA 107.

The People of the State of Michigan enact:

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

(2) Subject to subsection (4), a county board of commissioners may adopt an ordinance authorizing the operation of ORVs on 1 or more county roads located within the county. Not less than 45 days before a public hearing on the ordinance, the county clerk shall send notice of the public hearing, by certified mail, to the county road commission, to the legislative body of each township and municipality located within the county, to the state transportation department if the road intersects a highway, and, if state forestland is located within the county, to the department. If the county is a southern county, before adopting an ordinance under this subsection, the county board of commissioners shall consult with the board of county road commissioners.

(3) Subject to subsection (4), the legislative body of a township or municipality may adopt an ordinance authorizing the operation of ORVs on 1 or more county roads located within the township or municipality, respectively. Not less than 28 days before a public hearing on the ordinance, the clerk of the township or municipality shall send notice of the public hearing, by certified mail, to the county road commission, to the county board of commissioners, to the legislative body of every other township and municipality located within the county, to the state transportation department if the road intersects a highway, and, if state forestland is located within the township or municipality, to the department. If the township or municipality is located in a southern county, before adopting an ordinance under this subsection, the legislative body of the township or municipality shall consult with the board of county road commissioners. This subsection does not apply to a township or municipality until 1 year after the effective date of the amendatory act that first authorized the county in which that township or municipality is located to adopt an ordinance under subsection (2).

(4) The board of county road commissioners may close a county road to the operation of ORVs otherwise authorized pursuant to subsection (2) or (3). A county road commission shall not under this subsection close more than 30% of the linear miles of county roads located within the county to the operation of ORVs otherwise authorized pursuant to subsection (2) or (3). The legislative body of a township or municipality may adopt an ordinance to close a county road located in the township or municipality to the operation of ORVs otherwise authorized pursuant to subsection (2). The legislative body of a village may adopt an ordinance to close a county road located in the village to the operation of ORVs otherwise authorized by the township pursuant to subsection (3). A county road may be closed to the operation of ORVs under this subsection only to protect the environment or if the operation of ORVs poses a particular and demonstrable threat to public safety.

(5) The legislative body of a municipality may adopt an ordinance authorizing the operation of ORVs on 1 or more streets within the municipality.

(6) The legislative body of a local unit of government may request the state transportation department to authorize the local unit of government to adopt an ordinance authorizing the operation of ORVs on a highway, other than an interstate highway, located within the local unit of government. The request shall describe how the authorization would meet the requirements of subsection (7). The state transportation department shall solicit comment on the request from the department, ORV clubs, and local units of government where the highway is located. The state transportation department shall consider comments received on the request before making a decision on the request. The state transportation department shall grant the request in whole or in part or deny the request not more than 60 days after the request is received. If the state transportation department grants a request in whole or in part under this subsection, the local unit of government that submitted the request may adopt an ordinance authorizing the operation of ORVs on the highway that was the subject of the request. A county may submit a request for authorization under this subsection on behalf of 1 or more local units of government located within that county if requested by those local units of government. Before January 1, 2015, the state transportation department may authorize the operation of ORVs on a highway as provided in this subsection and subsection (7) on the department's initiative and without having received a request from a local unit of government.

(7) The state transportation department shall authorize operation of an ORV under subsection (6) only on a highway that is not an interstate highway and that meets 1 or more of the following requirements:

(a) Serves as a connector between ORV areas, routes, or trails designated by the department or an ORV user group.

(b) Provides access to tourist attractions, food service establishments, fuel, motels, or other services.

(c) Serves as a connector between 2 segments of the same county road that run along discontinuous town lines and on which ORV use is authorized pursuant to subsection (2) or (3).

(d) Includes a bridge or culvert that allows an ORV to cross a river, stream, wetland, or gully that is not crossed by a street or county road on which ORVs are authorized to operate under subsection (2), (3), or (5).

(8) The state transportation department may close a highway to the operation of ORVs otherwise authorized pursuant to subsection (6) after written notice to the clerk of each local unit of government where the highway is located and the senate and house committees with primary responsibility for natural resources, recreation, and transportation. The notice shall be in writing and sent by first-class United States mail or personally delivered not less than 30 days before the adoption of the rule or order closing the highway. The notice shall set forth specific reasons for the closure.

(9) Subject to subsection (4), if a local unit of government adopts an ordinance pursuant to subsection (2), (3), or (5), a person may operate an ORV with the flow of traffic on the far right of the maintained portion of the street or county road covered by the ordinance. If the operation of ORVs on a highway is authorized pursuant to subsection (6), a person may operate an ORV with the flow of traffic as follows:

(a) On the right shoulder of the highway.

(b) If there is not a right shoulder or the right shoulder is not of adequate width, on the right unmaintained portion of the highway.

(c) On the far right of the right traffic lane of the highway, if necessary to cross a bridge or culvert and if the operator brings the ORV to a complete stop before entering and yields the right-of-way to an approaching vehicle on that traffic lane.

(10) A person shall not operate an ORV as authorized pursuant to subsection (2), (3), (5), or (6) at a speed greater than 25 miles per hour or a lower posted ORV speed limit or in a manner that interferes with traffic on the street, county road, or highway.

(11) Unless the person possesses a license as defined in section 25 of the Michigan vehicle code, 1949 PA 300, MCL 257.25, a person shall not operate an ORV as authorized pursuant to subsection (2), (3), (5), or (6) if the ORV is registered as a motor vehicle under chapter II of the Michigan vehicle code, 1949 PA 300, MCL 257.201 to 257.259, and either is more than 65 inches wide or has 3 wheels. ORVs operated as authorized pursuant to subsection (2), (3), (5), or (6) shall travel single file, except that an ORV may travel abreast of another ORV when it is overtaking and passing, or being overtaken and passed by, another ORV.

(12) A person shall not operate an ORV as authorized pursuant to this section without displaying a lighted headlight and lighted taillight.

(13) A person under 18 years of age shall not operate an ORV as authorized pursuant to this section unless the person is in possession of a valid driver license or under the direct supervision of a parent or guardian and the person has in his or her immediate possession an ORV safety certificate issued pursuant to this part or a comparable ORV safety certificate issued under the authority of another state or a province of Canada. A person under 12 years of age shall not operate an ORV as authorized pursuant to this section. The requirements of this subsection are in addition to any applicable requirements of section 81129.

(14) A township that has authorized the operation of ORVs on a county road under subsection (3) does not have a duty to maintain the maintained portion or unmaintained portion of the county road in a condition reasonably safe and convenient for the operation of ORVs. This state does not have a duty to maintain a highway in reasonable repair so that it is reasonably safe and convenient for the operation of ORVs except ORVs registered and operated as motor vehicles as provided in the code. A board of county road commissioners, a county board of commissioners, or a municipality does not have a duty to maintain the maintained portion or unmaintained portion of a county road or street under its jurisdiction in a condition reasonably safe and convenient for the operation of ORVs, except the following ORVs:

- (a) ORVs registered and operated as motor vehicles as provided in the code.
- (b) ORVs operated as authorized pursuant to subsection (1).

(15) Subject to section 5 of 1964 PA 170, MCL 691.1405, this state, a board of county road commissioners, a county board of commissioners, and a local unit of government are immune from tort liability for injuries or damages sustained by any person arising in any way out of the operation or use, on the maintained portion or unmaintained portion of a highway, road, or street, of an ORV that is not registered under the code or that is registered under the code but is operated as authorized pursuant to subsection (2), (3), (5), or (6). The immunity provided by this subsection does not apply to actions of an employee of this state, an employee of a board of county road commissioners, an employee of a county board of commissioners, or an employee of a local unit of government that constitute gross negligence. As used in this subsection, "gross negligence" means conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.

(16) In a court action in this state, if competent evidence demonstrates that a vehicle that is permitted to operate on a road, street, or highway pursuant to the code was in a collision on a roadway with an ORV that is not registered under the code, the operator of the ORV shall be considered prima facie negligent.

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

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

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

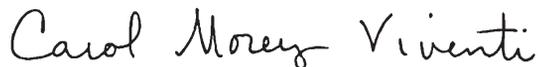
(b) Fifty percent to the board of county road commissioners or, in the case of a city or village, to the department responsible for street maintenance in the city or village. However, if a fine was collected for a violation of an ordinance adopted under subsection (6), 50% of the fine revenue shall be appropriated to the state transportation department. Revenue appropriated under this subdivision shall be used for repairing damage to streets, county roads, or highways and the environment that may have been caused by ORVs and for posting signs indicating ORV speed limits or indicating whether streets, county roads, or highways are open or closed to the operation of ORVs under this section.

(19) A person who violates a rule promulgated or order issued under subsection (6) is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$500.00. In addition, the court shall order the defendant to pay the cost of repairing any damage to the environment, a highway, or public property as a result of the violation.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor

Act No. 119
Public Acts of 2013
Approved by the Governor
September 25, 2013
Filed with the Secretary of State
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**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2013**

Introduced by Senator Casperson

ENROLLED SENATE BILL No. 50

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to protect the people's right to hunt and fish; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 81101, 81115, 81122, 81129, 81133, and 81147 (MCL 324.81101, 324.81115, 324.81122, 324.81129, 324.81133, and 324.81147), section 81101 as amended by 2012 PA 246, sections 81115, 81129, and 81147 as amended by 2008 PA 240, section 81122 as added by 1995 PA 58, and section 81133 as amended by 2012 PA 340; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 81101. As used in this part:

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

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

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

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

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

(f) "Farm vehicle" means either of the following:

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

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

- (g) “Forest road” means a hard surfaced road, gravel or dirt road, or other route capable of travel by a 2-wheel drive, 4-wheel conventional vehicle designed for road use. Forest road does not include a street, county road, or highway.
- (h) “Forest trail” means a designated path or way capable of travel only by a vehicle less than 50 inches in width.
- (i) “Highway” means a state trunk line highway or a segment of a state trunk line highway.
- (j) “Highly restricted personal information” means an individual’s photograph or image, social security number, digitized signature, and medical and disability information.
- (k) “Late model ORV” means an ORV manufactured in the current model year or the 5 model years immediately preceding the current model year.
- (l) “Local unit of government” means a county, township, or municipality.
- (m) “Maintained portion” means the roadway and any shoulder of a street, county road, or highway.
- (n) “Manufacturer” means a person, partnership, corporation, or association engaged in the production and manufacture of ORVs as a regular business.
- (o) “Municipality” means a city or village.
- (p) “Off-road vehicle account” means the off-road vehicle account of the Michigan conservation and recreation legacy fund established in section 2015.
- (q) “Operate” means to ride in or on, and be in actual physical control of, the operation of an ORV.
- (r) “Operator” means an individual who operates or is in actual physical control of the operation of an ORV.
- (s) “ORV” or, unless the context implies a different meaning, “vehicle” means a motor-driven off-road recreation vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. A multitrack or multiwheel drive vehicle, a motorcycle or related 2-wheel vehicle, a vehicle with 3 or more wheels, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation may be an ORV. An ATV is an ORV. ORV or vehicle does not include a registered snowmobile, a farm vehicle being used for farming, a vehicle used for military, fire, emergency, or law enforcement purposes, a vehicle owned and operated by a utility company or an oil or gas company when performing maintenance on its facilities or on property over which it has an easement, a construction or logging vehicle used in performance of its common function, or a registered aircraft.
- (t) “Owner” means any of the following:
- (i) A vendee or lessee of an ORV that is the subject of an agreement for the conditional sale or lease of the ORV, with the right of purchase upon performance of the conditions stated in the agreement, and with an immediate right of possession vested in the conditional vendee or lessee.
- (ii) A person renting an ORV, or having the exclusive use of an ORV, for more than 30 days.
- (iii) A person who holds legal ownership of an ORV.
- (u) “Person with a disability” means an individual who has 1 or more of the following physical characteristics:
- (i) Blindness.
- (ii) Inability, during some time of the year, to ambulate more than 200 feet without having to stop and rest.
- (iii) Loss of use of 1 or both legs or feet.
- (iv) Inability to ambulate without the prolonged use of a wheelchair, walker, crutches, braces, or other device required to aid mobility.
- (v) A lung disease from which the individual’s expiratory volume for 1 second, when measured by spirometry, is less than 1 liter, or from which the individual’s arterial oxygen tension is less than 60 mm/hg of room air at rest.
- (vi) A cardiovascular disease that causes the individual to measure between 3 and 4 on the New York heart classification scale, or that results in a marked limitation of physical activity by causing fatigue, palpitation, dyspnea, or anginal pain.
- (vii) Other diagnosed disease or disorder including, but not limited to, severe arthritis or a neurological or orthopedic impairment that creates a severe mobility limitation.
- (v) “Personal information” means information that identifies an individual, including an individual’s driver identification number, name, address not including zip code, and telephone number, but does not include information on ORV operation or equipment-related violations or civil infractions, operator or vehicle registration status, accidents, or other behaviorally-related information.
- (w) “Public agency” means the department or a local or federal unit of government.
- (x) “Roadway” means the portion of a street, county road, or highway improved, designed, or ordinarily used for travel by vehicles registered under the code. Roadway does not include the shoulder.
- (y) “Route” means a forest road or other road that is designated for purposes of this part by the department.

(z) "Safety chief instructor" means an individual who has been certified by a nationally recognized ORV organization to certify instructors and to do on-sight evaluations of instructors.

(aa) "Shoulder" means that portion of a street, county road, or highway contiguous to the roadway and generally extending the contour of the roadway, not designed for vehicular travel but maintained for the temporary accommodation of disabled or stopped motor vehicles otherwise permitted on the roadway.

(bb) "Southern county" means Muskegon, Kent, Ionia, Clinton, Shiawassee, Genesee, Lapeer, or Macomb county, or a county lying south of the territory constituted by these counties.

(cc) "Street" means a city or village major street or city or village local street as described in section 9 of 1951 PA 51, MCL 247.659, or a segment thereof.

(dd) "Traffic lane" means a clearly marked lane on a roadway.

(ee) "Unmaintained portion" means the portion of a street, county road, or highway that is not the maintained portion.

(ff) "Visual supervision" means the direct observation of the operator with the unaided or normally corrected eye, where the observer is able to come to the immediate aid of the operator.

Sec. 81115. (1) Subject to subsection (2), a person shall not operate an ORV under any of the following conditions unless the ORV is licensed with the department or a dealer as provided under this part:

(a) Except as otherwise provided by law, on or over land, snow, ice, or other natural terrain.

(b) Except as otherwise provided in this part, on a forest trail or in a designated area.

(c) On a street, county road, or highway, except if the vehicle is registered under the code.

(2) An ORV is not required to be licensed under this part under any of the following circumstances:

(a) The ORV is used exclusively in a comprehensive program for training as required in section 81129.

(b) The ORV is operated solely on private property by the owner of the property, a family member of the owner, or an invited guest of the owner.

(c) The ORV is being operated on a free ORV-riding day. The department shall designate as free ORV-riding days each year a Saturday and the following Sunday that are also designated as free fishing days under section 43534. In addition, the department may designate 1 other day or 2 other consecutive days each year as free ORV-riding days. A person operating an unlicensed ORV during a free ORV-riding day has the same privileges and is subject to the same rules and regulations as a person operating an ORV licensed as required under subsection (1).

(d) If and to the extent the department waives the requirement pursuant to a reciprocal agreement with another state.

(3) The department is authorized to enter a reciprocal agreement described in subsection (2)(d).

Sec. 81122. (1) A person shall not operate an ORV that is not registered under the code upon a street, county road, or highway, except as provided in section 81131 or under the following conditions and circumstances:

(a) The operator of a vehicle may cross a street, county road, or highway, other than a limited access highway, at right angles, for the purpose of getting from 1 area to another, if the operation can be done in safety. The operator shall bring the vehicle to a complete stop before proceeding across a street, county road, or highway, and shall yield the right-of-way to oncoming traffic.

(b) A vehicle may be operated on a street, county road, or highway for a special event of limited duration and conducted according to a prearranged schedule only under permit from the governmental unit having jurisdiction. Subject to subsection (2), a special event involving ORVs may be conducted on the frozen surface of public waters only under permit from the department.

(c) A farmer, employee of a farmer, or family member of a farmer who is at least 16 years of age may operate an ORV on a street, county road, or highway while traveling to or from the farmer's residence or work location or field during the course of farming operations. An ORV shall not be operated pursuant to this subdivision during the period of 30 minutes before sunset to 30 minutes after sunrise or when visibility is substantially reduced due to weather conditions. The individual shall operate the ORV in the same manner and on the same portion of the street, county road, or highway as required under section 81131(9). The state transportation department and all of its employees are immune from tort liability for injury or damages sustained by any person arising in any way by reason of the operation or use of an ORV for the limited purposes allowed under this subdivision. An operator of an ORV under this subdivision shall have attached to the ORV a flag made of reflective material. The flag shall extend not less than 8 feet from the surface of the street, county road, or highway and not less than 4 feet above the top of the ORV. The flag shall be not less than 12 inches high by 18 inches long and not measure less than 100 square inches.

(2) The department shall not require a permit under this part merely for organized group recreational ORV riding on department lands, or for an ORV event on the frozen surface of public waters, if conducted in compliance with applicable statutes, rules, and orders. Within 90 days after the effective date of the amendatory act from the 2013-2014 legislative session that added this subsection, the department shall develop and establish, in consultation with representatives of the Michigan snowmobile and trails advisory committee and other interested parties, policy criteria for determining circumstances under which notice to the department or a permit is required for ORV events on department lands.

(3) In a court action in this state if competent evidence demonstrates that a vehicle that is permitted to operate on a highway pursuant to the code is in a collision on a roadway with an ORV that is not registered under the code, the operator of the ORV involved in the collision shall be considered prima facie negligent.

Sec. 81129. (1) Subject to subsections (2), (3), and (17), a parent or legal guardian of a child less than 16 years of age shall not permit the child to operate an ORV unless the child is under the direct visual supervision of an adult and the child has in his or her immediate possession an ORV safety certificate issued pursuant to this part or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

(2) Subject to subsection (17), a parent or legal guardian of a child less than 12 years of age shall not permit the child to operate a 4-wheeled ATV, unless the child is not less than 10 years of age and is on private land owned by a parent or legal guardian of the child. This subsection does not apply to the operation of an ATV used in agricultural operations.

(3) A parent or legal guardian of a child less than 16 years of age shall not permit the child to operate a 3-wheeled ATV.

(4) Subject to subsections (5), (6), and (17), the owner or person in charge of an ORV shall not knowingly permit the vehicle to be operated by a child less than 16 years of age unless the child is under the direct visual supervision of an adult and the child has in his or her immediate possession an ORV safety certificate issued pursuant to this part or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

(5) Subject to subsection (17), the owner or person in charge of a 4-wheeled ATV shall not knowingly permit the vehicle to be operated by a child less than 12 years of age, unless the child is not less than 10 years of age and is on private land owned by a parent or legal guardian of the child. This subsection does not apply to the operation of an ATV used in agricultural operations.

(6) The owner or person in charge of a 3-wheeled ATV shall not knowingly permit the vehicle to be operated by a child less than 16 years of age.

(7) The owner or person in charge of an ORV shall not knowingly permit the vehicle to be operated by a person who is incompetent to operate the vehicle because of mental or physical disability.

(8) The department shall implement a comprehensive program for the training of ORV operators and the preparation and dissemination of ORV information and safety advice to the public. The program shall provide for the training of youthful operators and for the issuance of ORV safety certificates to those who successfully complete the training and may include separate instruction for each type of ORV.

(9) In implementing a program under subsection (8), the department shall cooperate with private organizations and associations, private and public corporations, the department of education, the department of state, and local governmental units. The department shall consult with ORV and environmental organizations and associations in regard to the subject matter of a training program and performance testing that leads to certification of ORV operators.

(10) The department may designate a person it considers qualified to provide course instruction and to award ORV safety certificates.

(11) The department may promulgate rules to implement subsections (8) to (10) and (17).

(12) Subject to subsections (13), (14), and (17), a child who is less than 16 years of age shall not operate an ORV unless the child is under the direct visual supervision of an adult and the child has in his or her immediate possession an ORV safety certificate issued pursuant to this section or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

(13) Subject to subsection (17), a child who is less than 12 years of age shall not operate a 4-wheeled ATV, unless the child is not less than 10 years of age and is on private land owned by a parent or legal guardian of the child. This subsection does not apply to the operation of an ATV used in agricultural operations.

(14) A child who is less than 16 years of age shall not operate a 3-wheeled ATV.

(15) Subject to subsection (17), when operating an ORV, a child who is less than 16 years of age shall present the ORV safety certificate to a peace officer upon demand.

(16) Notwithstanding any other provision of this section, an operator who is less than 12 years of age shall not cross a street, county road, or highway. An operator who is not less than 12 years of age but less than 16 years of age may cross a street, county road, or highway or operate an ORV pursuant to section 81131(9) if the operator has a valid ORV safety certificate in his or her immediate possession and meets any other requirements under this section for operation of the vehicle.

(17) The requirement that a child possess an ORV safety certificate to operate an ORV, and the requirement that a child who is less than 12 years of age not operate a 4-wheeled ATV unless the child is not less than 10 years of age and is on private land owned by a parent or legal guardian of the child, do not apply if all of the following requirements are met:

(a) The child is participating in an organized ORV riding or racing event held on land not owned by this state.

(b) The child's parent or legal guardian has provided the event organizer with written permission for the child to participate in the event.

(c) The event organizer has not less than \$500,000.00 liability insurance coverage for the event.

(d) A physician or physician's assistant licensed or otherwise authorized under part 170 or 175 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17084 and 333.17501 to 333.17556, or a paramedic or emergency medical technician licensed under part 209 of the public health code, 1978 PA 368, MCL 333.20901 to 333.20979, is present at the site of the event or available on call.

(e) The event is at all times under the direct visual supervision of adult staff of the event organizer and a staff member serves as a flagger to warn ORV riders if another ORV rider is injured or an ORV is inoperable in the ORV operating area.

(f) Fencing or another means of crowd control is used to keep spectators out of the ORV operating area.

(g) If the event is on a closed course, dust is controlled in the ORV operating area and the riding surface in the ORV operating area is otherwise properly prepared.

(h) Three-wheeled ATVs are not used by participants.

(i) Any ATVs used by participants are equipped with a side step bar or comparable safety equipment and with a tether kill switch, and the tether is used by all participants.

(j) Each participant in the event wears a crash helmet approved by the United States department of transportation, a protective long-sleeved shirt or jacket, long pants, boots, and protective gloves.

(k) Any other applicable requirements of this part or rules promulgated under this part are met.

(18) If a child less than 16 years of age participates and is injured in an organized ORV riding or racing event, the organizer of the event shall, within 30 days after the event, submit to the department a report on a form developed by the department. The report shall include all of the following, as applicable:

(a) Whether any participant less than 16 years of age was killed or suffered an injury resulting in transportation to a hospital as a result of an ORV accident at the event.

(b) The age of the child.

(c) Whether the child had been issued an ORV safety certificate under this part or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.

(d) The type of ORV operated.

(e) A description of the accident and injury.

(19) By December 31 of each year, the department shall submit to the legislature a report that summarizes reports received under subsection (18) during the preceding calendar year. In the report, the department may recommend amendments to this part to improve the safety of children less than 16 years of age participating in organized ORV riding or racing events.

(20) The requirements of this section are in addition to any applicable requirements of section 81131(13).

Sec. 81133. (1) An individual shall not operate an ORV:

(a) At a rate of speed greater than is reasonable and proper, or in a careless manner, having due regard for conditions then existing.

(b) Unless the individual and any passenger in or on the vehicle is wearing on his or her head a crash helmet and protective eyewear approved by the United States department of transportation. This subdivision does not apply to either of the following:

(i) The operator of or a passenger in a vehicle that is equipped with a roof that meets or exceeds standards for a crash helmet if the operator and each passenger is wearing a properly adjusted and fastened safety belt.

(ii) The operator of or a passenger in an ORV that is operated on a state licensed game bird hunting preserve at a speed of not greater than 10 miles per hour.

(c) During the hours of 1/2 hour after sunset to 1/2 hour before sunrise without displaying a lighted headlight and lighted taillight. The requirements of this subdivision are in addition to any applicable requirements of section 81131(12).

(d) Unless equipped with a braking system that may be operated by hand or foot, capable of producing deceleration at 14 feet per second on level ground at a speed of 20 miles per hour; a brake light, brighter than the taillight, visible

from behind the vehicle when the brake is activated, if the vehicle is operated during the hours of 1/2 hour after sunset and 1/2 hour before sunrise; and a throttle so designed that when the pressure used to advance the throttle is removed, the engine speed will immediately and automatically return to idle.

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

(f) On the frozen surface of public waters within 100 feet of an individual not in or upon a vehicle, or within 100 feet of a fishing shanty or shelter or an area that is cleared of snow for skating purposes, except at the minimum speed required to maintain controlled forward movement of the vehicle, or as may be authorized by permit in special events.

(g) Unless the vehicle is equipped with a spark arrester type United States forest service approved muffler, in good working order and in constant operation. Exhaust noise emission shall not exceed 86 Db(A) or 82 Db(A) on a vehicle manufactured after January 1, 1986, when the vehicle is under full throttle, traveling in second gear, and measured 50 feet at right angles from the vehicle path with a sound level meter that meets the requirement of ANSI S1.4 1983, using procedure and ancillary equipment therein described; or 99 Db(A) or 94 Db(A) on a vehicle manufactured after January 1, 1986, or that level comparable to the current sound level as provided for by the United States environmental protection agency when tested according to the provisions of the current SAE J1287, June 86 test procedure for exhaust levels of stationary motorcycles, using sound level meters and ancillary equipment therein described. A vehicle subject to this part, manufactured or assembled after December 31, 1972 and used, sold, or offered for sale in this state, shall conform to the noise emission levels established by the United States environmental protection agency under the noise control act of 1972, 42 USC 4901 to 4918.

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

(i) On property owned by or under the operator's control or on which the operator is an invited guest.

(ii) On a forest road or forest trail if the forest road or forest trail is maintained by or under the jurisdiction of the department.

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

(i) In or upon the lands of another without the written consent of the owner, the owner's agent, or a lessee, when required by part 731. The operator of the vehicle is liable for damage to private property caused by operation of the vehicle, including, but not limited to, damage to trees, shrubs, or growing crops, injury to other living creatures, or erosive or other ecological damage. The owner of the private property may recover from the individual responsible nominal damages of not less than the amount of damage or injury. Failure to post private property or fence or otherwise enclose in a manner to exclude intruders or of the private property owner or other authorized person to personally communicate against trespass does not imply consent to ORV use.

(j) In an area on which public hunting is permitted during the regular November firearm deer season, from 7 a.m. to 11 a.m. and from 2 p.m. to 5 p.m., except during an emergency or for law enforcement purposes, to go to and from a permanent residence or a hunting camp otherwise inaccessible by a conventional wheeled vehicle, or to remove from public land a deer, elk, or bear that has been taken under a valid license; except to conduct necessary work functions involving land and timber survey, communication and transmission line patrol, or timber harvest operations; or except on property owned or under control of the operator or on which the operator is an invited guest. A hunter removing game under this subdivision may leave the designated trail or forest road only to retrieve the game and shall not exceed 5 miles per hour. A vehicle registered under the code is exempt from this subdivision while operating on a private road capable of sustaining automobile traffic or a street, county road, or highway. A person holding a valid permit to hunt from a standing vehicle issued under part 401, or a person with a disability using an ORV to access public lands for purposes of hunting or fishing through use of a designated trail or forest road, is exempt from this subdivision. An individual holding a valid permit to hunt from a standing vehicle issued under part 401, or a person with a disability using an ORV to access public lands for purposes of hunting or fishing, may display a flag, the color of which the department shall determine, to identify himself or herself as a person with a disability or an individual holding a permit to hunt from a standing vehicle under part 401.

(k) Except as otherwise provided in section 40111(3) or (4), while transporting on the vehicle a bow unless unstrung or encased, or a firearm unless unloaded and securely encased, or equipped with and made inoperative by a manufactured keylocked trigger housing mechanism.

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

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

(n) On an operating or nonabandoned railroad or railroad right-of-way, or public utility right-of-way, other than for the purpose of crossing at a clearly established site intended for vehicular traffic, except railroad, public utility, or law enforcement personnel while in performance of their duties, and except if the right-of-way is designated as provided for in section 81127.

(o) In or upon the waters of any stream, river, bog, wetland, swamp, marsh, or quagmire except over a bridge, culvert, or similar structure.

(p) To hunt, pursue, worry, kill, or attempt to hunt, pursue, worry, or kill an animal, whether wild or domesticated.

(q) In a manner so as to leave behind litter or other debris.

(r) On public land, in a manner contrary to operating regulations.

(s) While transporting or possessing, in or on the vehicle, alcoholic liquor in a container that is open or uncapped or upon which the seal is broken, except under either of the following circumstances:

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

(ii) If the vehicle does not have a trunk or compartment separate from the passenger compartment, the container is encased or enclosed.

(t) While transporting any passenger in or upon an ORV unless the manufacturing standards for the vehicle make provisions for transporting passengers.

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

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

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

(2) Each person who participates in the sport of ORV riding accepts the risks associated with that sport insofar as the dangers are inherent. Those risks include, but are not limited to, injuries to persons or property that can result from variations in terrain; defects in traffic lanes; surface or subsurface snow or ice conditions; bare spots; rocks, trees, and other forms of natural growth or debris; and collisions with fill material, decks, bridges, signs, fences, trail maintenance equipment, or other ORVs. Those risks do not include injuries to persons or property that result from the use of an ORV by another person in a careless or negligent manner likely to endanger person or property. When an ORV is operated in the vicinity of a railroad right-of-way, each person who participates in the sport of ORV riding additionally assumes risks including, but not limited to, entanglement with railroad tracks, switches, and ties and collisions with trains and train-related equipment and facilities.

Sec. 81147. (1) Except as otherwise provided in this part, a person who violates this part is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$50.00 or more than \$1,000.00, or both, for each violation.

(2) A person who violates section 81133(1)(e) by operating an ORV in such a manner as to create an erosive condition or who violates section 81133(1)(i) or (o) is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than \$250.00 or more than \$1,000.00, or both, for each violation.

(3) A person who violates section 81105, 81107, 81115, 81116, 81121, 81130, or 81133(1)(b), (c), (d), (f), (g), (h), (j), (l), or (m) is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

(4) A person shall not remove, deface, or destroy a sign or marker placed by the department indicating the boundaries of an ORV trail or area or that marks a route.

(5) In addition to the penalties otherwise provided under this part, a court of competent jurisdiction may order a person to restore, as nearly as possible, any land, water, stream bank, streambed, or other natural or geographic formation damaged by the violation of this part to the condition it was in before the violation occurred.

(6) The department or any other peace officer may impound the ORV of a person who commits a violation of this part that is punishable as a misdemeanor or who causes damage to the particular area in which the ORV was used in the commission of the violation.

(7) Upon conviction of a person for violation described in subsection (6), a court of competent jurisdiction may order the ORV and any personal property on the ORV seized as a result of the violation returned to the owner or, upon recommendation of the local prosecuting attorney, turned over to the department. An ORV or any other property turned over to the department under this subsection shall be disposed of in the manner provided for condemnation of property in part 16. The proceeds realized by the department under this subsection shall first be used to restore areas damaged by ORV use, with the balance to be deposited in the off-road vehicle account.

Enacting section 1. Sections 81102 and 81128 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81102 and 324.81128, are repealed.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Gay E. Randall

Clerk of the House of Representatives

Approved.....

.....
Governor