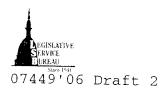
## DRAFT 2

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 81131 (MCL 324.81131), as added by 1995 PA 58.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

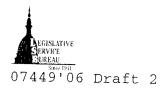
- 1 Sec. 81131. (1) A local unit of government may pass an
- 2 ordinance establishing access routes TO THE SYSTEM UNDER SECTION
- 3 81127 along streets and highways ROADS under its jurisdiction, if
- 4 those access routes do not involve state or federal highways, and
- 5 if they meet the requirements of the plan developed pursuant to
- 6 section -81127 -81123. If necessary, consent of a state or federal
- 7 land management agency shall be obtained for the location of the
- 8 route.
- 9 (2) A municipality may pass an ordinance allowing a
- 10 permanently disabled person to operate an ORV in that municipality.



- 1 (3) THE COUNTY BOARD OF COMMISSIONERS OF A COUNTY LYING NORTH
- 2 OF THE SOUTH LINE OF TOWNSHIP 12 NORTH MAY ADOPT AN ORDINANCE
- 3 AUTHORIZING THE OPERATION OF ORVS ON THE RIGHT-OF-WAY OF PUBLIC
- 4 STREETS AND ROADS LOCATED WITHIN THE COUNTY.
- 5 (4) IF A COUNTY ADOPTS AN ORDINANCE UNDER SUBSECTION (3), A
- 6 PERSON MAY OPERATE AN ORV WITH THE FLOW OF TRAFFIC ON THE EXTREME
- 7 RIGHT SIDE OF A STREET OR ROAD RIGHT-OF-WAY, WHETHER OR NOT THE ORV
- 8 IS LICENSED UNDER SECTION 81115. A PERSON SHALL NOT OPERATE AN ORV
- 9 UNDER THIS SUBSECTION DURING THE PERIOD BEGINNING 30 MINUTES BEFORE
- 10 SUNSET AND ENDING 30 MINUTES AFTER SUNRISE, WHEN VISIBILITY IS
- 11 SUBSTANTIALLY REDUCED DUE TO WEATHER CONDITIONS, OR IN A MANNER
- 12 THAT INTERFERES WITH TRAFFIC ON THE STREET OR ROAD. A PERSON SHALL
- 13 NOT OPERATE AN ORV UNDER THIS SUBSECTION AT A SPEED GREATER THAN
- 14 THE POSTED ORV SPEED LIMIT; THE POSTED SNOWMOBILE SPEED LIMIT, IF
- 15 AN ORV SPEED LIMIT IS NOT POSTED; OR THE SPEED POSTED FOR TRAFFIC
- 16 ON THE STREET OR ROAD, IF NEITHER AN ORV NOR A SNOWMOBILE SPEED
- 17 LIMIT IS POSTED. ORVS OPERATED ON A STREET OR ROAD RIGHT-OF-WAY
- 18 UNDER THIS SUBSECTION SHALL TRAVEL SINGLE FILE, EXCEPT THAT AN ORV
- 19 MAY TRAVEL ABREAST OF ANOTHER ORV WHEN IT IS OVERTAKING AND
- 20 PASSING, OR BEING OVERTAKEN AND PASSED BY, THE OTHER ORV. A PERSON
- 21 SHALL NOT OPERATE AN ORV UNDER THIS SUBSECTION UNLESS A FLAG MADE
- 22 OF REFLECTIVE MATERIAL IS ATTACHED TO THE ORV. THE FLAG SHALL BE
- 23 LOCATED AT A HEIGHT NOT LESS THAN 8 FEET ABOVE THE SURFACE OF THE
- 24 ROAD AND NOT LESS THAN 4 FEET ABOVE THE TOP OF THE ORV. THE FLAG
- 25 SHALL BE NOT LESS THAN 12 INCHES HIGH, NOT LESS THAN 18 INCHES
- 26 LONG, AND NOT LESS THAN 100 SQUARE INCHES IN AREA.
- 27 (5) IF A COUNTY ADOPTS AN ORDINANCE UNDER SUBSECTION (3), THE



- 1 BOARD OF COUNTY ROAD COMMISSIONERS MAY CLOSE A STREET OR ROAD
- 2 RIGHT-OF-WAY TO THE OPERATION OF ORVS TO PROTECT THE ENVIRONMENT OR
- 3 IF THE OPERATION OF ORVS ON THE ROAD RIGHT-OF-WAY POSES A
- 4 PARTICULAR AND DEMONSTRABLE THREAT TO PUBLIC SAFETY. A COUNTY ROAD
- 5 COMMISSION SHALL NOT UNDER THIS SUBSECTION CLOSE MORE THAN 30% OF
- 6 THE LINEAR MILES OF STREETS OR ROADS LOCATED WITHIN THE COUNTY TO
- 7 THE OPERATION OF ORVS ON THE RIGHT-OF-WAY.
- 8 (6) -(3) A board of county road commissioners, a county board
- 9 of commissioners, and a <del>local unit of government</del> MUNICIPALITY do
- 10 not have a duty to maintain a highway under their respective
- 11 jurisdictions in a condition reasonably safe and convenient for the
- 12 operation of ORVs, except the following ORVs:
- (a) ORVs registered as motor vehicles as provided in the code.
- 14 (b) ORVs permitted by an ordinance as provided in subsection
- **15** (2).
- 16 (7) -(4) Beginning October 19, 1993, a board of county road
- 17 commissioners, a county board of commissioners, and a county are,
- 18 and, beginning on April 25, 1995, a municipality is, immune from
- 19 tort liability for injuries or damages sustained by any person
- 20 arising in any way out of the operation or use of an ORV on
- 21 maintained or unmaintained -highways ROADS, STREETS, shoulders,
- 22 and rights-of-way over which the board of county road
- 23 commissioners, the county board of commissioners, or the -local
- 24 unit of government MUNICIPALITY has jurisdiction. The immunity
- 25 provided by this subsection does not apply to actions that
- 26 constitute gross negligence. Gross negligence is defined as AS
- 27 USED IN THIS SUBSECTION, "GROSS NEGLIGENCE" MEANS conduct so



- 1 reckless as to demonstrate a substantial lack of concern for
- 2 whether an injury results.
- 3 (8) A COUNTY BOARD OF COMMISSIONERS MAY BY RESOLUTION
- 4 AUTHORIZE A MUNICIPALITY WITHIN THE COUNTY TO ADOPT AN ORDINANCE
- 5 EXERCISING THE POWERS OF A COUNTY UNDER SUBSECTIONS (3), (4), AND
- 6 (5) WITH RESPECT TO ROADS AND STREETS LOCATED WITHIN THAT
- 7 MUNICIPALITY.
- 8 (9) SECTION 81133(H) AND (M) DOES NOT APPLY TO AN ORV OPERATED
- 9 PURSUANT TO AN ORDINANCE ADOPTED UNDER SUBSECTION (3) OR (8).
- 10 (10) IN A COURT ACTION IN THIS STATE, IF COMPETENT EVIDENCE
- 11 DEMONSTRATES THAT A VEHICLE THAT IS PERMITTED TO OPERATE ON A
- 12 STREET OR ROAD PURSUANT TO THE CODE WAS IN A COLLISION WITH AN ORV
- 13 OPERATED ON THE RIGHT-OF-WAY PURSUANT TO AN ORDINANCE ADOPTED UNDER
- 14 THIS SECTION, THE OPERATOR OF THE ORV INVOLVED IN THE COLLISION
- 15 SHALL BE CONSIDERED PRIMA FACIE NEGLIGENT.
- 16 (11) A VIOLATION OF AN ORDINANCE DESCRIBED IN THIS SECTION IS
- 17 A MISDEMEANOR. THE ORDINANCE MAY PROVIDE FOR A MAXIMUM FINE OF NOT
- 18 MORE THAN \$500.00 FOR A VIOLATION OF THE ORDINANCE. IN ADDITION,
- 19 THE COURT SHALL ORDER THE DEFENDANT TO PAY THE COST OF REPAIRING
- 20 ANY DAMAGE TO THE ENVIRONMENT, A STREET OR ROAD, OR PUBLIC PROPERTY
- 21 DAMAGED AS A RESULT OF THE VIOLATION.
- 22 (12) THE TREASURER OF THE LOCAL UNIT OF GOVERNMENT SHALL
- 23 DEPOSIT FINES AND DAMAGES COLLECTED UNDER SUBSECTION (11) INTO A
- 24 FUND TO BE DESIGNATED AS THE "ORV FUND". THE LEGISLATIVE BODY OF
- 25 THE LOCAL UNIT OF GOVERNMENT SHALL APPROPRIATE REVENUE IN THE ORV
- 26 FUND AS FOLLOWS:
- 27 (A) THIRTY PERCENT TO THE COUNTY SHERIFF OR POLICE DEPARTMENT



- RESPONSIBLE FOR LAW ENFORCEMENT IN THE LOCAL UNIT OF GOVERNMENT FOR 1
- ORV ENFORCEMENT AND TRAINING. 2
- (B) SEVENTY PERCENT TO THE BOARD OF COUNTY ROAD COMMISSIONERS 3
- OR, IN THE CASE OF A CITY OR VILLAGE, TO THE DEPARTMENT RESPONSIBLE 4
- FOR STREET MAINTENANCE IN THE CITY OR VILLAGE, FOR REPAIRING DAMAGE 5
- TO STREETS OR ROADS AND THE ENVIRONMENT CAUSED BY ORVS AND FOR 6
- 7 POSTING ORV SPEED LIMITS.

