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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 ~~local unit of government~~ **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:

13 (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



1 RESPONSIBLE FOR LAW ENFORCEMENT IN THE LOCAL UNIT OF GOVERNMENT FOR
2 ORV ENFORCEMENT AND TRAINING.

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

