

HB4323 Becomes Michigan Law!

From the Michigan Motorized Recreation Council

July 17, 2008 - Michigan Governor Jennifer Granholm signed both ORV bills at 10:11 am this morning, HB 4323 and the tie-bar bill regarding insurance, HB 5559 into Michigan law. Now referred to as Public Act 240 and Public Act 241 of 2008.

This now makes it clearly legal for Michigan counties and townships to open their roadways to ORV use on the "far right," at a speed no greater than 25 mph, once a local ordinance is adopted. All youths must have DNR ORV safety training and be under visual supervision of an adult, able to come to their immediate aid as per current law.

We now begin the process of implementing these new laws for the benefit of the ORV user and Michigan's economic climate. In reality, all current ordinances permitting ORV use on roadways became void once the Governor signed the bills because of language change.

A county must give a 45 day notice to the Road Commission, Sheriff and DNR forestry people within a county of the intent to adopt an ordinance as now clearly provided for under Michigan Compiled law.

Once a county adopts, every township is in, unless they choose to opt out. If after one year, a county doesn't adopt an ordinance, a township may.

We have a draft prepared and plan to be meeting with legal council from the Michigan Association of Counties and have a master ordinance for the 43 counties affected by this change of law. Hopefully, we have uniform ordinances in all of northern Michigan.

Within a few days, we plan to have more answers and solutions available.

Our THANKS to Representative Joel Sheltrown (D) District 103 and his very affective aide Brady Schickinger, for getting the bill introduced and dealing with all 19 amendments.

The enrolled version of the bill is available on the web [here](#).

BASIC QUESTIONS

Now that House Bill 4323 has been passed, does that mean I can now operate an ORV on the road?

No. You may not operate your ORV on a public street or road until your county, city, village or township adopts an ordinance allowing it.

What roads are covered?

County and municipal roads and streets. State and federal highways, roads and trails are not included.

What counties may open their roads to ORVs?

Only counties in the northern Lower Peninsula and the Upper Peninsula may open their roads to ORVs. This includes Mason, Lake, Osceola, Clare, Gladwin, Arenac, Bay and any county to the north of those counties. Roughly, this is any county including or north of M-10. Huron, Midland and Isabella are not included.

Are existing county ORV ordinances still valid?

The law providing for access routes established with the consent of the DNR or unilaterally established by some counties is repealed. Consequently, local governments must re-adopt ordinances under the new law if they wish to provide for the operation of ORVs on their roads or streets.

Does the bill include golf carts?

No.

FOR LOCAL GOVERNMENTS

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 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.

FOR RIDERS

What are the general operating standards?

Operation must be to the far right of the maintained portion of the road or street. An ORV may not be operated against the flow of traffic. The maximum speed of operation is 25 mph unless a lower speed limit has been posted. An ORV may not interfere with other traffic on the road or street. ORVs must travel single file except when passing.

Are headlights/taillights required to operate an ORV on a road or street?

Prior to January 1, 2010 a person must display a lighted headlight and taillight when visibility is reduced. Beginning January 1, 2010, any ORV operating on the road at any time must display a lighted headlight and taillight.

What are the permitted hours of operation?

Operation is permitted at all hours. A lighted headlight and taillight must be used from 1/2 hour after sunset to 1/2 hour before sunrise.

How old does a child have to be to operate an ORV on a road?

A person under age 12 may not operate an ORV on a street or road. A child age 12, 13, 14 and 15 may operate an ORV on a road under the direct visual supervision of an adult and has in their immediate possession and ORV safety certificate. Children younger than 16 may not operate a 3-wheeled ORV or an ORV wider than 60" on a road. A child age 16 or 17 may operate without direct visual supervision provided they have a valid drivers license and an ORV safety certificate in their possession. Michigan will recognize an ORV safety certificate issued by other state or a province of Canada.

Who is at fault in the event of an accident?

In the event an ORV is in an accident with another vehicle legally permitted to operate on the road or street, the owner of the ORV shall be considered prima facie negligent. The owner of an ORV does not qualify for no-fault/PIP benefits in the event of a single vehicle accident or an accident with another ORV.

What is the penalty for violating an ORV ordinance?

The penalty is a municipal civil infraction with a fine of not more than \$500 and/or damages to repair any damage to the environment, street, road or other public property. The fine and damages shall be deposited into a local ORV fund.

What is the penalty for creating an erosive condition or violating state environmental law?

The penalty is a misdemeanor punishable by imprisonment for not more than 90 days and/or a fine of not less than \$250 or more than \$1000 for each violation.