

SFA

BILL ANALYSIS

Senate Fiscal Agency

• Lansing, Michigan 48909

• (517) 373-5383

House Bill 4827 (Substitute H-1 as reported with amendments)

Sponsor: Representative Tom Alley

House Committee: Conservation, Recreation and Environment

Senate Committee: State Affairs, Tourism, and Transportation

MAY 16 1990

Date Completed: 3-28-90

RATIONALE

Off-road vehicle (ORV) use reportedly has expanded rapidly within the past 15 years and is a popular recreational sport around the State. Some people, however, have cited the recent increase of environmental problems, accidents and injuries, and noise pollution caused by ORVs as an indicator of the need to overhaul ORV regulations. Specifically, they claim that the damage to streams and other geographic and natural resources caused by ORVs makes it imperative that greater efforts be made to ensure that these resources are restored and protected adequately. They also express concern about the accident and injury rate of ORV users, and encourage development of more safety education programs in order to combat this problem. Many hunters and fishers apparently have complained about the noise created by ORVs and have requested more stringent noise control mechanisms for the machines. Finally, ORV users reportedly have expressed concern about the lack of available safety programs and the dearth of designated trails for them to ride upon. In short, many seem to agree that more needs to be done to ensure that ORVs are operated safely, and ORV users are sensitive to the need to preserve the State's natural resources, and to the interests and needs of others who wish to enjoy those resources.

CONTENT

The bill would amend Public Act 319 of 1975, which provides for the registration

and regulation of ORVs, to replace the Act's registration requirements with licensure requirements; replace the current \$15 three-year registration fee with an annual licensure fee of \$7 beginning in 1991 and increasing to \$10 by 1995; specify titling and certificate procedures; and establish an ORV Trail Improvement Fund.

Certificate of Title

The bill would require every ORV sold, purchased, or otherwise acquired after April 1, 1991, to have a certificate of title issued by the Secretary of State's office. ORVs titled under the Michigan Vehicle Code could not be titled under Public Act 319 of 1975. An owner of an ORV that was titled under Public Act 319, however, could apply for a title under the Code, and at the time the owner applied for a title under the Code, the title issued under the Act would have to be surrendered. The sale of an ORV would be prohibited unless the owner delivered a certificate of title to the transferee showing assignment of the ORV in the transferee's name, and purchase of an ORV would be prohibited unless a certificate of title to the ORV were obtained in the person's name.

An application for an ORV certificate of title would have to be certified by the owner or purchaser and contain the following information:

H.B. 4827 (3-28-90)

- The applicant's name and address.
- The name and address of the previous owner.
- A statement of any security interest or other liens on the ORV, and the name and address of any lien holder.
- A statement that a lien was not outstanding, if that were indeed true.
- A description of the ORV including the year, make, model or series, and vehicle identification number.
- Any other information required by the Department of State.

If requested by the security interest holder, an application for an ORV certificate of title that indicated the existence of a security interest in the ORV would have to be accompanied by a copy of the security agreement, which could be unsigned. The Department of State would be required to indicate on the copy the date and place of filing and return the copy to the person who filed the application. The filer would be required to forward the copy to the security interest holder named in the application.

A purchaser or other transferee of an ORV would have to apply for a certificate of title within 15 days after the date of purchase or transfer. A retail dealer of ORVs would have to apply for a certificate of title in the purchaser's name within 15 days after delivering an ORV to a retail purchaser. The purchaser would be required to sign the application and other papers necessary to enable the dealer to secure the title from the Department of State. If the ORV were not previously titled, the application would have to be accompanied by a manufacturer's certificate of origin.

The Secretary of State's office would be required to charge a \$10.50 fee for processing an application for an ORV certificate of title or duplicate certificate of title. An additional fee of \$5 would have to be charged for processing an application on an expedited basis. The bill would establish a \$10 penalty for an insufficient funds draft, which would be collected in addition to the application fee. (The current penalty is \$5.) The Secretary of State's office could refuse to issue an original or duplicate certificate of title if an application

were incomplete, or contained false or fraudulent information, the required fee were not paid, the ORV were titled under the Code, or the office had reason to believe that the ORV was stolen or embezzled.

Manufacturer's Certificate of Origin

Sale or transfer of an ORV for the purpose of resale or display by a dealer would be prohibited unless the dealer were given a manufacturer's certificate of origin, and the dealer specifically would be prohibited from purchasing or acquiring a new ORV without obtaining such a certificate. A manufacturer's certificate of origin would have to contain:

- A description of the ORV, including year, make, model or series, and vehicle identification number.
- Certification of the date of the ORV's transfer to the dealer.
- The dealer's name and address.
- Certification that the transaction was the first transfer of the new ORV in ordinary commerce.
- The transferor's signature and address.
- Other information required by the Secretary of State.

An assignment of a manufacturer's certificate of origin would have to be printed on the reverse side of the certificate and include the name and address of the transferee, a certificate that the ORV was new, and a warranty that the title at the time of delivery was subject only to the secured interests specified in the assignment.

Duplication or Forgery

An ORV certificate of title would have to be manufactured in such a way as to prohibit as nearly as possible the ability to reproduce, alter, counterfeit, forge, or duplicate it without ready detection, and would have to contain on its face the information on the certificate application. On its reverse side, the certificate would have to contain a form for assignment and warranty of title by the owner with space for the notation of a security interest in the ORV, which at the time of a transfer would have to be certified and signed. The reverse side also could contain other forms that the Department of State considered necessary to facilitate the

effective administration of the Act. The Department of State would be required to prescribe a uniform method of numbering the ORV certificates of title.

Duplication or forgery of an ORV certificate of title when committed with the intent to commit or aid in the commission of an offense punishable by imprisonment for one or more years would be a misdemeanor punishable by imprisonment for a period equal to the number of years that could be imposed for the commission of the intended offense, and would carry a fine of up to \$5,000. If the intent of the forgery or duplication were to commit or aid in commission of an offense punishable by imprisonment for up to one year, the violator would be guilty of a misdemeanor, punishable by imprisonment for up to one year or a fine of up to \$1,000, or both.

Licensure

Beginning April 1, 1991, ORVs would have to be licensed. Licensure would not be required for an ORV that was registered on the effective date of the bill until the expiration date of the registration. A license would be valid for a 12-month period, beginning April 1 and ending March 31 each year. The fee for a license would be \$7 beginning April 1, 1991, \$8 beginning April 1, 1993, and \$10 beginning April 1, 1995. The fee currently is \$15 for a three-year registration. License applications could be obtained from either the Department of Natural Resources (DNR) or a dealer. Dealers could purchase from the DNR licenses for resale to owners of vehicles. The Department would have to refund to the dealers the purchase price of any ORV license returned within 90 days after the end of the 12-month period for which the license was valid. The dealer would have to maintain and provide to the Department records of ORV license sales.

The bill would delete language that currently provides for a 15-day temporary registration permit for vehicles that will be used primarily outside the State, and for temporary seasonal registration of vehicles for use only at a State park. Instead, the bill specifies that licensure would not be needed for vehicles that will be used and stored outside of Michigan. The bill would delete language specifying that an ORV

need not be registered if it is operated exclusively on land owned by, or under the control of, the vehicle's owner, and specifies that an ORV operating on a forest trail or in a designated area open for ORV use would have to be licensed.

Records of ORV Certificates

The Secretary of State would be required to maintain one or more indexes pertaining to ORV certificates of title and could check the information in an application for a certificate against the indexes of titled, registered, stolen, and recovered ORVs and any other records of the Secretary of State. Further, the Secretary of State could provide a commercial look-up service of ORV title and registration records on a fee basis, upon request. The Secretary of State could furnish information on a title without charge to authorized law enforcement and conservation officers engaged in official duties. The Secretary of State could purge a record of an ORV certificate of title and any record pertaining to it seven years after the title was issued or the record was made or received. The Department would be required to promulgate any rules necessary to implement the regulatory provisions of the Act or "clarify the intent" of the Act.

ORV Trail Improvement Fund

The bill would create the ORV Trail Improvement Fund within the State Treasury. The Fund would be administered by the DNR for the signing, improvement, maintenance, and construction of ORV trails, the leasing of land, the acquisition of easements, permits, or other land use agreements for the ORV trails, and the restoration of any of the State's natural resources that were damaged due to ORV use.

Beginning April 1, 1990, \$6 of the revenue from each license fee would have to be deposited in the Fund. Beginning April 1, 1993, all of the revenue from each license fee would have to be deposited in the Fund. All funds would be used for projects open to the public. Further, the DNR could accept donations, grants, and gifts from any public or private source or the Federal, State or local unit of government for the purposes of the Fund. No money in the Fund could be spent prior to April 1, 1991. Any money remaining

in the Fund at the end of a fiscal year would be carried over into succeeding fiscal years.

Operation of ORVs

The bill would prohibit the operation of an ORV in or upon the waters of a stream, river, bog, wetland, swamp, marsh, or quagmire except over a bridge, culvert or similar structure. The bill would delete provisions that allow operation of ORVs in streams under certain conditions. The bill also would prohibit operation of an ORV while transporting a passenger unless the vehicle were manufactured to hold passengers.

Equipment and Noise Levels

The Act requires ORVs to be equipped with a spark arrester type muffler. The bill would require the muffler to be approved by the U.S. Forest Service.

The Act also specifies that the noise emission level of a vehicle under full throttle, at 50 feet at right angles from the vehicle path cannot exceed 86 db(A) for a vehicle manufactured or assembled after January 1, 1975, as measured on a sound level meter that meets the requirements of ANSI S1.4 1971, using procedure and ancillary equipment as described. The bill would delete this provision and specify instead that exhaust noise emissions for a vehicle manufactured after January 1, 1986, could not exceed either:

- 86 Db(A) or 82 Db(A) when the vehicle was 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 as described.
- 99 Db(A) or 94 Db(A) or that level comparable to the current sound level as provided for by the Environmental Protection Agency (EPA) 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 as described.

Further, the bill specifies that the Act's current

requirement that a vehicle used, sold, or offered for sale in Michigan conform to the noise emission levels established by the EPA under the Federal Noise Control Act of 1972 would apply to vehicles manufactured or assembled after December 31, 1982, rather than February 1, 1976, as currently provided.

Effective Dates and Repealer

The ORV Trail Improvement Fund provisions and the ORV operating prohibitions would take effect upon enactment of the bill, and the rest of the bill's provisions would take effect April 1, 1991.

The bill would repeal sections of Public Act 319 that:

- Specify that revenue received under the Act is to be credited to the General Fund, and from the revenues annual appropriations are to be made to the Department of State for administration of the registration provisions and to the DNR to construct and maintain trails, restore public lands, acquire property and equipment, administer a safety education and training program, and conduct research on ORVs.
- Provide for registration renewal decals and replacement certificates and decals.
- Specify the procedures to be followed if an ORV is destroyed, abandoned, sold or transferred, or if the address of the ORV owner changes.
- Provide for dealers' and manufacturers' certificates and decals.
- Require vehicle identification numbers (VINs) for ORVs and specify penalties for possession of an altered, intentionally defaced or obliterated VIN.
- Provide for the issuance of special permits and stickers for out-of-state ORVs.
- Specify permitted areas for the operation of ORVs.

MCL 257.1601 et al.

SENATE COMMITTEE ACTION

The Senate Committee adopted amendments to the bill to include definitions for "safety education fund" and "safety chief instructor" so

that the bill would be consistent with provisions in Senate Bill 176, which would amend Public Act 319 of 1975 to provide for ORV safety education courses and create a Safety Education Fund.

FISCAL IMPACT

Assuming 200,000 ORVs in the State, \$1.2 million in additional revenue could be generated and deposited annually to the ORV Trail Improvement Fund until 1993. From 1993-1995, \$1.6 million would be deposited to the Fund annually, and \$2 million deposited after 1995.

The bill would have no fiscal impact on the Department of State. The costs of issuing ORV titles would be covered by the fees charged.

Additional costs to the courts and local units of government would depend on the level of enforcement and number of convictions.

ARGUMENTS

Supporting Argument

ORVs are very popular recreation vehicles. They do damage the environment, however, by eroding streambeds and introducing trails into ecologically fragile areas. Thus, environmentalists have stressed the need for more regulations to manage ORV use. The bill would address these concerns by establishing licensing provisions and more stringent ORV operating procedures. Landowners who have had unwanted trails established on their land by ORV users cite the need for more State trails and restoration provisions governing ORV use. The bill would establish a fund specifically for trail development and maintenance and restoration activities, and address noise pollution control problems by requiring certain ORV mufflers to be inspected by the U.S. Forest Service.

Opposing Argument

When the DNR is required to establish trails or new projects, an advisory committee also is usually established in order for users of the trail or project to help ensure the trail or project will meet its goals. The bill does not include an advisory committee or an advisory person to assist and advise the DNR in order to make the ORV trails successful. In addition,

the bill does not specify how money in the ORV Trail Improvement Fund would be divided, nor would it establish a system for designating ORV trail systems as opened or closed.

Response: The issues of an advisory committee, designation of the way the Fund would be divided, and a sign system to designate State lands as closed or open can be addressed later.

Legislative Analyst: L. Burghardt

Fiscal Analyst: G. Cutler

H8990\S4827A

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.