

Legislative Analysis



PART 811: ORV AMENDMENTS

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Senate Bill 50 (Substitute H-1)

Sponsor: Sen. Tom Casperson

House Committee: Natural Resources

Senate Committee: Natural Resources, Environment, and Great Lakes

Complete to 6-20-13

A SUMMARY OF SENATE BILL 50 (H-1) AS REPORTED FROM HOUSE COMMITTEE 6-18-13

The bill would amend Part 811 (Off-Road Recreation Vehicles) of the Natural Resource and Environmental Protection Act to:

- (1) Expand the activities for which an ORV license is not required.
- (2) Allow the Department of Natural Resources (DNR) to enter into license reciprocity agreements with other states.
- (3) Establish a free ORV-riding day.
- (4) Prohibit a permit from being needed for group recreational ORV riding on DNR-owned land or for an ORV event on the frozen surface of public waters.

Exempt from licensure

ORVs would not be required to be licensed under Part 811 under any of the following circumstances:

- The ORV is used solely on private property by the property owner, a family member, or an invited guest.
- The ORV is being used on a free ORV-riding day.
- The Department of Natural Resources waived the licensure requirement as part of a reciprocal agreement with another state.

ORV license reciprocity

The bill would allow the DNR to enter into a reciprocal agreement with other states under which ORV users licensed in other states would not need to obtain a license in Michigan.

[According to testimony, the intent of the bill is to allow the DNR to enter into reciprocal agreements with border states; however, the bill would allow the department to enter into such an agreement with any state.]

Free ORV-riding day

Under the bill, the DNR would be required to designate as free ORV-riding days, a Saturday and the following Sunday that corresponds to the same days designed as "free fishing days" under Section 43534. The DNR could also designate one additional day or two consecutive days as free ORV-riding days each year. During designated days, unlicensed ORV operators would have the same privileges and be subject to the same rules and regulations as a licensed operator under Part 811.

DNR lands and public waters

The bill would prohibit the DNR from requiring a permit under Part 811 for organized group recreational ORV riding on DNR-owned land or for an ORV event on the frozen surface of public waters, as long as the activity is conducted in compliance with appropriate rules, laws, and orders. Within 90 days after the bill taking effect, the DNR would be required to develop and establish, in collaboration with the Snowmobile and Trails Advisory Committee, policy criteria for determining circumstances under which notice to the department or a permit is required for ORV events on department lands.

Accidents involving unlicensed ORV

Under the bill, if evidence is presented as part of a court action that a vehicle operating on a highway in compliance with the Michigan Vehicle Code collides with an ORV that is not registered under the Code, the ORV operator would be considered prima facie negligent. This provision currently applies to ORVs operating on roadways but would now only apply to unlicensed ORVs.

Acceptance of risk

The bill states that each person participating in ORV riding accepts the risks associated with the sport because the dangers and risks are obvious and inherent. The bill specifies what types of injuries are inherent risks, what injuries are not risks, and what risks riders may face.

Enacting Section 1

The bill would repeal Sections 81102 and 81128 of the Natural Resources and Environmental Protection Act. Section 81102 contains exemptions to ORV licensure that would be reenacted under the bill into other sections within Part 811. Section 81128 established a citizen review board to make recommendations regarding the state's trail system.

FISCAL IMPACT:

Senate Bill 50 would have minimal fiscal impact on the Department of Natural Resources. Any fiscal impact would be related to possible lost permit revenue related to the bill's requirements of the implementation of several free ORV trail riding trails days during which riders could use the state trail system without purchasing a permit.

BACKGROUND INFORMATION AND DISCUSSION:

Senate Bill 50 (H-1) is part of a three-bill ORV package (along with House Bills 4299 and 4284) intended to expand ORV access and use and support the state's tourism industry. The bill would expand ORV uses that do not require a license and clarify the process of obtaining a group permit. Additionally, the bill would establish free riding days that correspond with free fishing days in an attempt to boost ORV-related tourism.

Concern was expressed in testimony about allowing additional ORV use on the shoulders of certain roadways. [House Bill 4299 would permit all counties in the state to adopt ordinances allowing ORV use on the shoulders of certain roadways; House Bill 4284 would allow for the operation of ORVs on the shoulders of state highways with the approval of the Department of Transportation.] According to testimony, ORVs are not equipped with the same safety features as motor vehicles and increasing the number riding on roadways could lead to more accidents. Unlike motorcycle riders who must purchase additional personal injury protection coverage if they choose not to wear a safety helmet, ORV operators would not be required to purchase any additional insurance coverage prior to operating on the shoulders of roadways. According to testimony, in the event that an ORV operator is involved in an accident with a motor vehicle, the ORV operator would likely be entitled to auto no-fault benefits, which could place a further strain on that system.

Additionally, the bill package is silent on how ORVs could be operated while on the shoulders of roadways. According to testimony, bicycle riders, when riding on a roadway, must comply with the Vehicle Code and conform to all traffic laws and regulations. While the package would allow ORV use on roadways, it does not establish guidelines for how the activity should be conducted.

POSITIONS:

Michigan Department of Natural Resources supports the bill. (6-18-13)

Michigan Association of Counties supports the bill. (6-18-13)

Michigan Townships Association supports the bill. (6-18-13)

Michigan United Conservation Clubs supports the bill. (6-18-13)

Coalition Protecting Auto No-Fault opposes the bill. (6-18-13)

Michigan Association for Justice (trial lawyers) opposes the bill. (6-18-13)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.