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BILL ANALYSIS



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Senate Bill 50 (as enacted)

PUBLIC ACT 119 of 2013

Sponsor: Senator Tom Casperson

Senate Committee: Natural Resources, Environment and Great Lakes

House Committee: Natural Resources

Date Completed: 7-28-15

CONTENT

The bill amended Part 811 (Off-Road Recreation Vehicles) of the Natural Resources and Environmental Protection Act to do the following:

- **Prohibit the operation of an unlicensed off-road recreation vehicle (ORV) on a street, county road, or highway, unless it is registered under the Michigan Vehicle Code.**
- **Require the Department of Natural Resources (DNR) each year to designate one weekend (which must coincide with free-fishing days) as free ORV-riding days, during which ORV licensure is not required, and allow the DNR to designate another day or two other consecutive days as free ORV-riding days.**
- **Allow the operation of an unlicensed ORV if the DNR waives licensure under a reciprocal agreement with another state.**
- **Revise the conditions under which an unregistered ORV may be operated.**
- **Prohibit the DNR from requiring a permit for the operation of an ORV merely for organized group recreational ORV riding on Department land, or for an ORV event on the frozen surface of public water.**
- **Provide that a person participating in the sport of ORV riding accepts the risks associated with the inherent dangers of the sport.**

The bill repealed Section 81102, which contained several exemptions to ORV licensure requirements, and reenacted those exemptions. The bill also repealed Section 81128, which established a citizens review board to make recommendations to the Legislature regarding the State's ORV trail system and required the board to disband after submitting its report.

The bill took effect on September 25, 2013.

License Exceptions; Free ORV-Riding Days

Except as otherwise provided, Part 811 as amended prohibits a person from operating an ORV under any of the following conditions, unless the ORV is licensed with the DNR or a dealer:

- On or over land, snow, ice, or other natural terrain.
- On a forest trail or in a designated area.
- On a street, county road, or highway, unless the ORV is registered under the Michigan Vehicle Code.

Previously, the third condition referred to the maintained portion of a road or street, except as provided in Section 81102. (That section exempted a vehicle registered under the Michigan Vehicle Code or Part 801 of the Act (Marine Safety) from licensure under Part 811 unless it was operated as an ORV off highways, roadways, streets, and forest roads.)

The bill also allows operation of an ORV without a license on a free ORV-riding day. The bill requires the DNR to designate as free ORV-riding days each year a Saturday and the following Sunday that also are designated as free fishing days under Section 43534. In addition, the DNR may designate one other day or two other consecutive days as free ORV-riding days. A person operating an unlicensed ORV during a free ORV-riding day has the same privileges and is subject to the same rules and regulations as a person operating a licensed ORV.

(Under Section 43534, the DNR must designate a Saturday and the following Sunday during January or February of each year as free winter fishing days, and may designate an additional one or two days per year as free fishing days. During these days, a person may fish for all species in waters designated by the Department without purchasing a license or permit.)

In addition, the bill allows an unlicensed ORV to be operated if and to the extent the DNR waives the licensure requirement pursuant to a reciprocal agreement with another state, which the bill authorizes the Department to enter into.

The bill also allows operation of an ORV without a license if it is operated solely on private property by the property owner, a family member of the owner, or an invited guest of the owner. (This provision also was in Section 81102.)

The bill defines "street" as a city or village major street or city or village local street as described in Public Act 51 of 1951, the Michigan Transportation Fund law. The bill defines "county road" as a county primary road or county local road as described in Public Act 51. The bill defines "highway" as a State trunkline highway or a segment of a State trunkline highway. Previously, "highway" meant "the entire width between the boundary lines of a way publicly maintained when any part of the way is open to the use of the public for purposes of vehicular travel".

Registration Requirements

As amended, Part 811 prohibits a person from operating an ORV that is not registered under the Vehicle Code upon a street, county road, or highway under specified conditions. Previously, this provision referred to a public highway, street, or right-of-way of a public highway.

The specified conditions allow an operator to cross a street, county road, or highway (rather than just a public highway) for the purpose of getting from one area to another. An ORV also may be operated on a street, a highway, or (under the bill) a county road for a special event of limited duration, under a permit from the governmental unit having jurisdiction.

The bill allows a farmer, employee of a farmer, or at least 16-year-old family member of a farmer to operate an unregistered ORV on a street, county road, or highway while traveling to or from the farmer's residence or work location or field during the course of farming operations. Previously, such a person could operate an unregistered ORV on the extreme right side of a roadway or highway right-of-way when it was not practicable to operate off that highway or right-of-way.

Operation without a Permit

The bill prohibits the DNR from requiring a permit under Part 811 merely for organized group recreational ORV riding on Department land, or for an ORV event on the frozen surface of public water, if conducted in compliance with applicable statutes, rules, and orders.

The bill required the DNR, within 90 days after its effective date, to develop and establish policy criteria for determining circumstances under which notice to the Department or a permit is required for ORV events on DNR land.

Operation by a Minor

As amended, Part 811 prohibits an ORV operator who is less than 12 years old from crossing a street, county road, or highway, and allows an operator who is at least 12 but younger than 16 to cross a street, county road, or highway certain circumstances. Previously, these provisions referred only to a street or highway.

Risks of ORV Riding

The bill provides that each person who participates in the sport of ORV riding accepts the risks associated with that sport insofar as the dangers are inherent. The risks include injuries to people or property resulting from variations in terrain; defects in traffic lanes; surface or subsurface snow or ice conditions; bare spots; rocks, trees, and other forms of natural growth or debris; and collisions with fill material, decks, bridges, signs, fences, trail maintenance equipment, or other ORVs. The risks do not include injuries to people or property resulting from another person's careless or negligent ORV use likely to endanger people or property. When an ORV is operated in the vicinity of a railroad right-of-way, each person assumes additional risks, including entanglement with railroad tracks, switches, and ties, and collisions with trains and train-related equipment and facilities.

MCL 324.81101 et al.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill may have a minimal fiscal impact on the Michigan Department of Transportation, depending on the number of ORVs that participate in the free ORV riding days.

The bill likely has a minimal effect on the amounts received for ORV licenses by the Department of Natural Resources. Michigan residents who own ORVs probably already purchase annual licenses for them, as the licenses are a relatively small marginal cost when compared to the cost of fuel, maintenance, and insurance and the fixed cost of acquisition of an ORV. It is likely, then, that the bill's only impact on the DNR is that people from out of State might come and use Michigan's trails for free on free ORV-riding days. The amount of revenue lost is likely be small, however, as many of the out-of-State ORV users who take advantage of the free ORV riding days probably would not purchase an annual ORV license otherwise.

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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.