



**House
Legislative
Analysis
Section**

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ORV REGULATION AND FEES

House Bill 4827 (Substitute H-1)

Sponsor: Rep. Tom Alley

Committee: Conservation, Recreation and Environment

House Bill 4547 (Substitute H-1)

Sponsor: Rep. Alvin Hoekman

First Committee: Transportation

Second Committee: Conservation, Recreation and Environment

Senate Bill 176 (Substitute H-1)

Sponsor: Sen. James Barcia

House Committee: Conservation, Recreation, & Environment

Senate Committee: State Affairs, Tourism, & Transportation

First Analysis (3-1-90)

THE APPARENT PROBLEM:

Off-road vehicle (ORV) use has expanded rapidly within the past fifteen years and is a popular recreational sport around the state. However, opponents of ORV use have cited the recent increase of environmental problems, accident and injury problems, and noise pollution caused by ORVs as an indicator of the need to overhaul ORV regulations. Specifically, ORV opponents cite the damage to streams and other geographic and natural resources by ORVs as an indicator of the need for restoration measures in ORV regulations. 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 these problems. Many hunters and fishers complain about the noise created by ORVs and have requested more stringent noise control mechanisms for the machines. In addition, ORV users have expressed concern about the lack of available safety programs and the lack of designated trails for them to ride upon. Legislation has been introduced to address these problems.

THE CONTENT OF THE BILL:

House Bill 4827 would amend the off road vehicle (ORV) act to clarify the act's provisions by defining certain terms more clearly and to regulate ORV usage by establishing titling and certificate procedures, licensing and operating procedures, and a trail improvement fund for trail maintenance.

Titles and Certificates of Origin The bill would require every ORV sold 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 the ORV act. However, an owner of an ORV which was titled under the act 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 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 was obtained in the person's name. Sale or transfer of an

ORV for the purpose of resale or display by a dealer would be prohibited unless the dealer was delivered a manufacturer's certificate of origin. The bill would specify personal information to be included in certificates of title and certificates of origin.

The secretary of state's office would charge a \$10.50 fee for processing an application for an ORV certificate of title or duplicate certificate of title. It would charge an additional fee of \$5 for processing an application on an expedited basis. The bill would assess a \$10 penalty for non-sufficient funds draft, which would be collected in addition to the application fee. The secretary of state's office could refuse to issue an original or duplicate certificate of title if an application was incomplete, or contained false or fraudulent information, if the required fee was not paid, if the ORV was titled under the code, or if the office had reason to believe that the ORV was stolen or embezzled.

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 a fine of up to \$5,000. If the intent of the forgery or duplication was 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, and licenses would be issued 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. Applications for licenses could be obtained from either the Department of Natural Resources (DNR) or a dealer. Dealers could purchase from the DNR licenses for resale to

H.B. 4827 & 4547 and S.B. 176 (3-1-90)

owners of vehicles. The department would 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 maintain and provide to the department records of ORV license sales. Licenses would not be required for vehicles to be used outside of the state.

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, for the leasing of land, the acquisition of easements, permits, or other land use agreements for the ORV trails, and for 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 be deposited in the fund. Beginning April 1, 1993, all of the revenue from each license fee would be deposited in the fund. All funds would be used for projects open to the public. Any money remaining in the fund at the end of a fiscal year would remain in the fund, and the department could accept donations, grants and gifts for the purposes of the fund. In addition, the department could develop rules as were necessary to implement the bill.

Other Provisions. 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. Currently, the act allows operation of ORVs in streams under certain conditions. The bill would also prohibit operation of an ORV while transporting a passenger unless the vehicle was intended to hold passengers. In addition, the bill would require ORVs to be equipped with a spark arrester type muffler specifically approved by the United States Forest Service.

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

MCL 257.1601 et al.

Senate Bill 176. The bill would create the Safety Education Fund to be administered by the Department of Education and to be used for development of a comprehensive ORV information and safety education program, including training for ORV operators. Between the dates of April 1, 1991 and March 31, 1992, \$1 of the revenue from each license fee would be deposited in the Safety Education Fund. The Department of Education could accept gifts, grants or bequests for the purposes of the fund. Money remaining in the fund would be carried over to the next fiscal year and could only be used for the purposes stated in the bill. The act currently requires the legislature to appropriate funds from registration fees to the secretary of state's office for administration of the act's registration provisions and to the Department of Natural Resources to construct ORV trails and administer and implement an ORV safety education and training program.

Persons under the age of 16 would have to complete an ORV safety education course approved by the department before operating an all terrain vehicle (ATV) or an ORV. The course would include both a written and driving test, and upon successful completion of the course the person would receive an ORV safety certificate.

Colleges, universities, intermediate school districts, local school districts, law enforcement agencies, or other governmental agencies or a department-approved nonprofit service organization could conduct safety education courses. An agency or school conducting the course could apply to the department for a grant from the fund to defray costs associated with conducting a course. Fees for a course could not exceed more than \$25 if conducted by a public entity. However, there would be no limit upon the amount that a private business enterprise could charge for a course. Universities and community colleges could not charge more than the cost of one credit hour of instruction for a safety education course. The course fees would only be used for funding administration and implementation of the course, and private enterprises could not charge a course fee that exceeded the cost of conducting an ATV or ORV course.

The superintendent of public instruction would designate a person to be the state coordinator of the ATV and ORV safety education program. A person designated under the bill would have to have successfully completed ATV and ORV safety chief instructor courses. A person who had successfully completed ATV and ORV safety chief instructor courses would perform annual inspections of course sites.

The bill would take effect April 1, 1990.

MCL 257.1606b and 257.1617a

Under current law, illegal use of an ORV may result in imprisonment of up to 90 days, a fine of not more than \$500, or both, for each violation of the act. House Bill 4547 would amend current law by allowing an addition to the current penalties by specifying that a court could order a person who violated the act to restore, as nearly as possible, any land, water, stream bank, streambed, or other natural or geographic formation damaged by the violation to its previous condition. Any restoration ordered by the court would be performed in compliance with the provisions of applicable laws.

MCL 257.1624

HOUSE COMMITTEE ACTION:

The House Conservation, Recreation, and Environment Committee amended Senate Bill 176 to create a Safety Education Fund.

FISCAL IMPLICATIONS:

According to the Department of Natural Resources, there are 200,000 registered ORVs in the state and the amount of the fee to be deposited into the ORV Trail Improvement Fund is \$6, so House Bill 4827 is expected to generate \$1.2 million in revenue during the period from 1991-1993. After 1993, and assuming that the number of licensed ORVs stays the same, the bill is expected to generate \$1.6 million, and after 1995 it is expected to generate \$2 million. (2-28-90) According to the secretary of state's office, House Bill 4827 would result in an indeterminate cost for issuing ORV titles. (2-28-90) Information regarding the Department of Education's cost in implementing Senate Bill 176 is not available at this time. (9-28-90)

ARGUMENTS:

For:

ORVs are very popular recreation vehicles. However, they also damage the environment by creating erosion of streambeds and causing the introduction of trails into

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ecologically fragile areas. Thus, environmentalists have stressed the need for more regulations to manage ORV use, and the bill will address these concerns by establishing a licensing provision 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, and the bill will establish these provisions. In addition, it will address the need for trails by establishing a fund specifically for trail development and maintenance and will address noise pollution controls by requiring certain ORV mufflers to be inspected by the U.S. Forest Service.

For:

One of the most critical components of any attempt to ensure the safe operation of ATVs and ORVs is a requirement that operators receive sufficient training in the proper use of the vehicle and the appropriate driving practices for the type of vehicle used and the terrain upon which it is driven. The bill would mandate that young ATV and ORV operators receive the necessary education and training to make them safer drivers, provide for statewide coordination of such programs, and ensure that the course instructors were competent and qualified. Most importantly, by making these changes, bill would reduce avoidable injuries and deaths that result from the use of ORVs and ATVs by inexperienced operators.

Against:

When the DNR is required to establish trails or new projects, an advisory committee is usually also established in order for users of the trail or project to assist in making sure the trail or project will meet its goals. The package of bills 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 is to be divided, nor does it establish a system for designating ORV trail systems as opened or closed.

Response: It is the intent of the Committee on Conservation, Recreation and Environment to act on further legislation to address the issues of an advisory committee, designation of the way the fund will be divided, and a sign system to designate state lands as closed or open.

POSITIONS:

The Department of Natural Resources supports the bills. (2-28-90)

The Michigan United Conservation Clubs supports the bills. (2-28-90)

The Department of Education supports Senate Bill 176. (2-28-90)

The secretary of state's office supports Senate Bill 176. (2-28-90)

The Cycle Conservation Club of Michigan supports the bills. (2-28-90)

The Michigan Audobon Society supports the package of bills with the understanding that additional legislation will be introduced in the near future to designate all state lands closed to ORV use unless posted open. (2-28-90)