



Olds Plaza Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

ORV & SNOWMOBILE IMMUNITY

Senate Bill 634 (Substitute H-1)
Senate Bill 635 as passed by the Senate

First Analysis (7-13-93)
Sponsor: Senator John Pridnia

Senate Committee: Transportation and
Tourism
House Committee: Conservation,
Environment & Great Lakes Affairs

THE APPARENT PROBLEM:

Under the act regulating snowmobiles, Public Act 74 of 1968, snowmobiles are prohibited from public highways not specifically designated for their use, though snowmobiles can be operated on the shoulder or right of way of a highway or roadway under certain conditions. Snowmobiles also may be operated on highways (or on the right of way or shoulder) in county road systems if the highway is not normally snowplowed for regular traffic so long as the highway is not within city or village limits and the county road commission has designated and marked it for snowmobile use.

Public Act 319 of 1975 regulates off-road recreation vehicles, including both ATVs ("all terrain vehicles"), which are three- or four-wheeled vehicles designed for off-road use, and ORVs generally, which include a number of different kinds of motor-driven off-road recreation vehicles other than snowmobiles (including multitrack or multiwheel drive vehicles, ATVs, motorcycles, amphibious machine, and "ground effect air" cushioned vehicles). Counties, cities, villages, and townships can pass ordinances establishing access routes along streets and highways under their jurisdiction so long as those access routes don't involve state or federal highways and are limited to the minimum number necessary to serve the area. Otherwise, ORVs cannot be operated on public highways or streets or their rights of way except to cross them under certain circumstances or to participate in special events such as parades. The act, however, does allow cities, villages, or townships to pass ordinances allowing permanently disabled people to operate ORVs within the city, village, or township.

There is a state system of trails for both snowmobiles and ORVs, some of which are connected by county roads designated for

snowmobile use or as ORV access routes. However, apparently some snowmobilers and ORV users also have been using some undesignated county roads, and then suing county road commissions when the illegal user has been injured in an accident. Legislation has been introduced to clarify the road commissions' responsibilities to these recreational vehicle users.

THE CONTENT OF THE BILLS:

The bill would amend the relevant state laws to give county road commissions legal immunity from lawsuits stemming from injuries or damages sustained by ORV and snowmobile users who used maintained or unmaintained county highways (including shoulders and rights of way).

Senate Bill 634 would amend the off-road vehicle (ORV) act (Public Act 319 of 1975, MCL 257.1618) and Senate Bill 635 would amend the act regulating the operation of snowmobiles (Public Act 74 of 1968, MCL 257.1514).

Senate Bill 635 would say that county road commissioners would have no duty to maintain any highway under its jurisdiction in a condition reasonably safe and convenient for the operation of snowmobiles and that, when the bill took effect, county road commissioners would be immune from tort liability for injuries or damages sustained by anyone using or operating a snowmobile on maintained or unmaintained county highways, shoulders, and rights of way.

Senate Bill 634 would provide county road commissions with the same legal protections in the case of ORVs, except for ORVs registered under the Motor Vehicle Code or operated by

Senate Bills 634 and 635 (7-13-93)

permanently disabled people under local ordinances.

FISCAL IMPLICATIONS:

Fiscal information is not available. (7-12-93)

ARGUMENTS:

For:

In general, county road commissions should not be held liable for injuries or damages experienced by people illegally using county roads, and it seems outrageous that people driving recreational vehicles illegally on county roads should be able to sue if they suffer injuries or damages as a result of that illegal use. The bills wouldn't decrease county road commissions' duties to maintain roads for legal vehicular traffic, while at the same time protecting them from egregious lawsuits from disgruntled recreational vehicle users.

Against:

Some people believe that the bills amend the wrong acts, and that providing tort immunity is properly done by amending such acts as the Governmental Immunity Act, the Revised Judicature Act, or the act dealing with highway exceptions. Moreover, they point out that while the bills would provide immunity for county road commissions, they say nothing about immunity for county boards of commissioners. Yet in lawsuits, both would be sued. Perhaps county boards of commissioners should also be given immunity. Finally, the bills provide immunity for road commissions from injuries or damages sustained from the operation or use of snowmobiles or ORVs on maintained or unmaintained highways (including shoulders and rights of way), but shouldn't people at least be able to sue for gross negligence on the part of county road commissioners?

POSITIONS:

The Michigan Motorcycle Dealers Association supports the bill. (7-9-93)

The Michigan United Conservation Clubs supports the bills. (7-12-93)

Representatives of the following organizations testified in support of the bills (7-8-93):

- * The Department of Natural Resources
- * The Michigan Snowmobile Association

- * The County Road Association
- * The Michigan Recreational Vehicle Riders Association
- * The Michigan Association of Counties
- * The Cycle Conservation Club of Michigan