



Senate Fiscal Agency
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BILL



ANALYSIS

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House Bill 4744 (Substitute H-1 as passed by the House)
Sponsor: Representative James McNutt
House Committee: Conservation, Environment and Great Lakes
Senate Committee: Judiciary

Date Completed: 3-1-96

CONTENT

The bill would amend the governmental immunity Act to specify that the duty of a governmental agency having jurisdiction over a highway to “maintain the highway in reasonable repair so that it is reasonably safe and convenient for public travel” would be limited by the provisions of the Natural Resources and Environmental Protection Act relating to off-road recreation vehicles (ORVs) and snowmobiles (MCL 324.81131 and 324.82124). The bill also would delete a provision that no action may be brought against the State alleging failure to maintain and repair a highway, except for injury or loss suffered on or after July 1, 1965.

Off-Road Recreation Vehicles

The Natural Resources and Environmental Protection Act (NREPA) specifies that a board of county road commissioners, a county board of commissioners, and a local unit of government do not have a duty to maintain a highway in a condition reasonably safe and convenient for the operation of ORVs, except for ORVs that are registered as motor vehicles and those that are permitted by a municipal ordinance allowing a permanently disabled person to operate an ORV in that municipality.

Counties, beginning on October 19, 1993, and municipalities, beginning on April 25, 1995, are immune from tort liability for injuries or damages sustained by any person arising in any way out of the operation or use of an ORV on maintained or unmaintained highways, shoulders, and rights-of-way. The immunity provided by the NREPA does not apply to actions that constitute “gross negligence” (conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results).

Snowmobiles

The NREPA specifies that a board of county road commissioners, a county board of commissioners, and a county do not have a duty to maintain a highway in a condition reasonably safe and convenient for the operation of snowmobiles.

Beginning on October 19, 1993, counties are immune from tort liability for injuries or damages sustained by any person arising in any way out of the operation or use of a snowmobile on

maintained or unmaintained highways, shoulders, and rights-of-way. The immunity provided by the NREPA does not apply to actions that constitute gross negligence.

MCL 691.1402

Legislative Analyst: P. Affholter

FISCAL IMPACT

To the extent that the bill would resolve any conflict regarding the governmental immunity Act and laws that regulate ORVs and snowmobiles, there would be savings to governmental agencies.

Fiscal Analyst: B. Bowerman

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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.