

Legislative Analysis



OPERATION OF ORVs ON NORTHERN COUNTY AND MUNICIPAL ROADS

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House Bill 4323

Sponsor: Rep. Joel Sheltroun

Committee: Tourism, Outdoor Recreation, and Natural Resources

Complete to 3-5-07

A SUMMARY OF HOUSE BILL 4323 AS INTRODUCED 2-27-07

In general, the bill would amend Part 811 (Off-Road Recreation Vehicles) of the Natural Resources and Environmental Protection Act to authorize boards of commissioners of certain counties in northern Michigan to adopt ordinances permitting the operation of off-road vehicles (ORVs) on the shoulders of county roads. In addition, these northern counties may in turn authorize municipalities located within their boundaries to adopt similar ordinances.

Definition of ORV. In general, the definition of ORV includes ATVs (e.g., quads) and dirt bikes, but excludes snowmobiles. MCL 324.81101 specifically defines ORV as "a motor driven off-road recreation vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. "ORV or vehicle" includes, but is not limited to, a multitrack or multiwheel drive vehicle, an ATV, a motorcycle or related 2-wheel, 3-wheel, or 4-wheel vehicle, an amphibious machine, a ground effect air cushion vehicle, or other means of transportation deriving motive power from a source other than muscle or wind. "ORV or vehicle" does not include a registered snowmobile, a farm vehicle being used for farming, a vehicle used for military, fire, emergency, or law enforcement purposes, a vehicle owned and operated by a utility company or an oil or gas company when performing maintenance on its facilities or on property over which it has an easement, a construction or logging vehicle used in performance of its common function, or a registered aircraft."

Covered counties. As written, the bill would apply to counties "lying north of the south line of township 12 north." This would roughly correspond with the counties of Mason, Lake, Osceola, Clare, Gladwin, and Arenac and any county north of those counties.

County ORV ordinances. The designated northern counties could adopt an ordinance authorizing the operation of ORVs on public roads and streets located within the county.

Counties could keep up to 30 percent of roads closed to ORVs. A county that authorizes the use of ORVs on its roads could keep some streets and roads closed to ORVs "to protect the environment or if the operation of ORVs on the road right-of-way poses a particular and demonstrable threat to public safety."

Municipal ORV ordinances. Counties covered by the bill could, by resolution, authorize municipalities within their borders to adopt ordinances permitting ORV use on municipal roads. A municipality authorized to adopt an ORV ordinance could likewise keep up to 30 percent of its roads closed to ORVs for environmental or safety reasons.

Restrictions. The following rules would apply to the use of ORVs on county or municipal streets and roads:

- ORVs would have to be driven with the flow of traffic on the extreme right side of a street or road right-of-way, whether or not the ORV is licensed under MCL 324.81115.
- ORVs could not be operated on public roads (1) after sunset or before sunrise, (2) if weather conditions have caused substantially reduced visibility, or (3) in a manner interfering with traffic.
- A maximum speed limit of 25 miles per hour would apply unless a lower speed limit was posted.
- ORVs would have to travel single file except when passing or being passed by another ORV.
- Beginning January 1, 2010, an ORV operating on a county or municipal road would be required to have a headlight and taillight.
- A minor under the age of 18 could not operate an ORV on a county or municipal road without a valid driver's license unless under the direct supervision of a parent or guardian.

Liability and penalty issues.

- If an ORV being operated on a public road pursuant to a county or municipal ordinance were in a collision with another vehicle, the operator of the ORV would be considered prima facie negligent.
- A violation of a county or municipal ORV ordinance would be designated a municipal infraction subject to a maximum fine of \$500. In addition, the court would be required to order the violator to "pay the cost of repairing any damage to the environment, a street or road, or public property damaged as a result of the violation."
- Fines collected under the act would be placed in a county or municipal ORV Fund. 50 percent of the funds would be distributed to the county sheriff or police department for ORV law enforcement and training. The remaining 50 percent would be distributed to the county road commission or municipal department responsible for street maintenance for repairing damage caused by ORV use and for posting ORV speed limit signs.
- A county board of commissioners, county road commission, or municipality would be immune from tort liability for injuries or damages sustained by a person arising in any way out of the operation or use of an ORV on its streets or roads except in cases of gross negligence.

FISCAL IMPACT:

There would be no fiscal impact on state government. There could be an indeterminate increase in local revenue. This amount would depend on the number and nature of violations of local ORV ordinances, authorized by this bill. Fifty percent of this revenue would be provided to the county sheriff or police department, and 50 percent would be available for road maintenance, ORV speed limit signage, and to repair environmental damage caused by off-road vehicles.

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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.