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BILL ANALYSIS

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Senate Bill 296 (as passed by the Senate)
Sponsor: Senator Ron Jelinek
Committee: Transportation

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RATIONALE

In Michigan, children under the age of 16 must possess an off-road vehicle (ORV) safety certificate to operate ORVs, including all-terrain vehicles, motorcycles, and other motorized vehicles designed for off-road use. Children under the age of 12 may not operate an ORV except on private land with adult supervision. Those restrictions were enacted to reduce the incidence of injuries to children in ORV accidents, but some are concerned that the law may be limiting the growth of ORV riding events in Michigan. In particular, some racetrack owners and riding enthusiasts have suggested that the requirement to obtain an ORV safety certificate poses an undue burden for children participating in racing or riding events, some of whom may be coming from out-of-State and might not have the opportunity to obtain a safety certificate before an event. Because these activities take place in relatively controlled environments with adult supervision, it has been suggested that the current restrictions should not apply to children participating in ORV riding and racing events.

CONTENT

The bill would amend Part 811 (Off-Road Recreational Vehicles) of the Natural Resources and Environmental Protection Act to permit a child to operate an off-road vehicle without having an ORV safety certificate, or meeting other requirements, at organized riding or racing events under certain conditions.

Under Part 811, a child under 16 may not operate, and the parent or legal guardian of

a child under 16 may not permit the child to operate, an ORV unless he or she is under the direct visual supervision of an adult and has in his or her possession an ORV safety certificate issued under the part or a comparable certificate issued by another state or a Canadian province.

A child under the age of 12 may not operate a four-wheeled all-terrain vehicle (ATV) unless he or she is at least 10 years old and is on private land owned by a parent or legal guardian of the child.

Under the bill, those restrictions would not apply if all the following requirements were met:

- The child was participating in an organized ORV riding or racing event held on land not owned by the State.
- The child's parent or legal guardian had given the event organizer written permission for the child to participate in the event.
- The event organizer had at least \$500,000 liability insurance coverage for the event.
- A physician or physician's assistant licensed or otherwise authorized under the Public Health Code, or a paramedic or emergency medical technician licensed under the Code was present at the site or available on call.
- The event was at all times under the supervision of adult staff of the event organizer, and a staff member served as a flagger to warn ORV riders if another ORV rider was injured or an ORV was inoperable in the ORV operating area.

- Fencing or another means of crowd control was used to keep spectators out of the ORV operating area.
- If the event were on a closed course, dust was controlled in the ORV operating area and the riding surface otherwise was prepared properly.
- Participants did not use three-wheeled ATVs.
- Any ATVs used by participants were equipped with a side step bar or comparable safety equipment and with a tether kill switch, and all participants used the tether.
- Each participant in the event wore a crash helmet approved by the U.S. Department of Transportation, a protective long-sleeved shirt or jacket, long pants, boots, and protective gloves.
- Any other applicable requirements of Part 811 or rules promulgated under it were met.

The bill would permit the Director of the Department of Natural Resources (DNR) to promulgate rules to implement these provisions.

MCL 324.81129

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Off-road vehicle racing is a popular pastime in Michigan, which has at least 26 motocross tracks where competitions and riding events are hosted. According to testimony before the Senate Transportation Committee, 6,682 riders, including 2,051 under the age of 16, have registered to compete in at least one motocross race in Michigan in the past three years. Most of the participants have come from surrounding states and Ontario, but some reportedly traveled from as far as California or Florida. For these out-of-State competitors, it is inconvenient or sometimes impossible to obtain a safety certificate before the race. Some contestants may be unaware that such a certificate is required. Maintaining this requirement might inhibit the growth of the industry, and discourage out-of-State riders from coming to Michigan to compete, marginalizing the State's competitions.

Also, the safety certificate is not tailored specifically to racing events. Much of the safety instruction covered in the training course offered by the DNR applies to trail riding, where there are significant hazards from uneven terrain, narrow or winding trails, and oncoming vehicles, among other things. In the controlled setting of a racing event, many of those dangers are mitigated or not present. There are adult supervisors and event coordinators monitoring the races to ensure that the riders conform to the event rules and operate the vehicles safely. All the vehicles are moving in the same direction, eliminating the risk of a head-on collision. Flaggers are present to intervene and warn other racers if there is an accident or a vehicle has stopped on the course, and, after a race, all courses are cleared of riders before the next race is begun.

In addition, particularly for young racers, the maximum speed possible on a course is fairly low, reducing the risk of injury if a child is in an accident. Race courses also generally require protective gear that exceeds the minimum standards required by the DNR, including long-sleeved shirts, protective chest coverings, boots, and pads to help prevent injury. The bill would require a rider to use such safety equipment in order to be exempt from the current requirements, and would require an ORV to have safety features such as a kill-switch tether, which automatically shuts off the motor if a rider is thrown from the vehicle. Safety is a primary concern at racing or riding events, and organizers do their best to maintain the safest possible environment. The bill would allow these events to continue without unnecessary restrictions or requirements that could limit the growth of this popular activity in Michigan.

Opposing Argument

Off-road vehicles can be dangerous if operated improperly by an untrained rider. The ORV safety certificate program was implemented to ensure that each child operating an ORV has certain basic training and skills and is aware of potential hazards. If the requirements were waived for one group, others could ask for similar exceptions, weakening the effectiveness of the program. It would be preferable to preserve the current requirements while making it easier for children to comply. For example, the safety course could be offered on-line, allowing an out-of-State competitor

to complete the course before traveling to Michigan. Officials from the DNR could be present at an event to conduct a routine test, evaluate the child's ability to handle the vehicle, and then present the certificate to him or her on the day of the race. Such an approach would retain the current protections while enabling ORV racing to continue to flourish in the State.

Legislative Analyst: Curtis Walker

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Jessica Runnels

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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.