

OHV REGISTRATION & FINANCIAL ASSISTANCE PROGRAM FOR LAW ENFORCEMENT

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House Bill 6159

Sponsor: Rep. Steven Lindberg

Committee: Tourism, Outdoor Recreation and Natural Resources

Complete to 5-25-10

A SUMMARY OF HOUSE BILL 6159 AS INTRODUCED 5-12-10

The bill would amend Parts 20 (Michigan Conservation and Recreation Legacy Fund), 711 (Recreation Improvement Fund) and 811 (Off Road Recreational Vehicles) of the Natural Resources and Environmental Protection Act (NREPA) to do the following things, among others:

- Change the name of the Off-Road Vehicle Account in the Legacy Fund in Section 2015 of NREPA, MCL 324.2015, to the **"Off-Highway Vehicle Account."**
- Change references to "off road vehicles" to **"off-highway vehicles"**, and from "ORVs" to **"OHVs."**
- Remove "ground effect air cushion vehicles" (hovercraft) from the definition of ORV and thereby apparently remove hovercraft from title, certificates of origin, registration, trail permit, and many other provisions.
- Define **"enforcement officer"** as any of the following: a sheriff, sheriff's deputy, or individual authorized by a sheriff to enforce Part 811 who has satisfactorily completed at least 50 hours of law enforcement training, including training specific to Part 811, a village or township marshal, a municipal police officer, a state police officer, the director and conservation officers of the DNRE, and an MCOLES-certified law enforcement officer policing within his or her jurisdiction.
- Define the term **"other road"** as "a linear route capable of sustaining OHV traffic **up to 72 inches in width** that is not a highway or forest road. Other road includes, but is not limited to, former logging access roads, abandoned state or county roads, and abandoned railroad beds that are not dedicated for other uses."
- Revise the definition of **"safety chief instructor"** from "a person who has been certified by a nationally recognized ATV and ORV organization to certify instructors and to do [onsite] evaluations of instructors" to "a person who has completed nationally recognized safety training for all OHV types."
- Require the Department of State to begin issuing registration certificates for OHVs as of January 1, 2011 (in addition to the certificates of titles also issued by the Department of State and the trail permits issued by the DNRE).
- Require the owner of an OHV to register it by April 1, 2011, for a fee of \$20 for a three-year period. (If an owner registered an OHV before April 1, 2011, the registration would be valid until March 31, 2014.)

- Require the Department of State to issue registration certificates and decals to the owners of registered OHVs.
- Allow the Department of State to require the posting of a surety bond if someone applied to register an OHV of uncertain ownership that was worth more than \$2,500.
- Require registration fee revenue to be deposited in the Off-Highway Vehicle Account.
- Specify that the Department of State should receive an appropriation of not more than \$3 from each \$20 registration fee to defray the administrative costs associated with registering OHVs; specify that the remaining portion of each registration fee should go to the Off-Road Registration Fee Subaccount.
- Specify that any money appropriated to the Department of State but not expended by the end of a state fiscal year would be credited to the Recreational OHV Trail Improvement Subaccount.
- Specify that if less than \$3 from each registration fee was appropriated to the Department of State, the State Treasurer would have to transfer the difference between a \$3 per registration appropriation and the appropriated amount to the Recreational OHV Trail Improvement Account.
- Require the DNRE to establish a program of financial assistance to county sheriff departments and local law enforcement agencies for enforcement of Part 811 according to a formula that provides funding *based on lane miles open to OHV travel*.
- Require the DNRE to distribute at least one third of the funds available in the Registration Fee Subaccount to county sheriffs and local law enforcement agencies by May 15 of each year.
- Require the DNRE to post on its website information concerning the program of financial assistance.
- Authorize the DNRE to promulgate rules regarding the financial assistance program and the posting of information.

DETAILED SUMMARY:

OHVs registered as motor vehicles. Currently, a vehicle registered as a motor vehicle under the Michigan Vehicle Code (such as an SUV or a motorcycle) or under Part 801 (Marine Safety) is exempt from Part 811's licensure provisions, unless the vehicle is operated as an ORV off highways, roadways, streets, and forest roads. The bill would change "ORV" to "OHV" and "licensure" to "trail permit." [Under House Bill 6160, ORV licenses would be changed to "trail permits."]

OHVs operated only on private property. Currently, an ORV operated solely on private property by the property owner, a family member of the owner, or an invited guest, is exempt from the ORV licensure requirement. . The bill would change "ORV" to "OHV" and "licensure" to "trail permit." [The bill says "trait portrait," but "trail permit" is intended.]

Title requirements. Currently, an ORV sold by a dealer to a retail purchaser is subject to certificate of title requirements. In addition, someone who purchases or acquires an ORV must obtain a title for it as an ORV or a motor vehicle. The bill would change "ORV" to "OHV" throughout the provisions pertaining to ORV titles. [Note: Because a ground effect air cushion vehicle (hovercraft) would no longer be classified as an ORV or an OHV, this type of vehicle would apparently no longer need a title.]

Accident Claims Act and Insurance Code exemptions. Currently, an ORV is exempt from the Motor Vehicle Accident Claims Act and from certain provisions of the Insurance Code of 1956. The bill would change "ORV" to "OHV" in the provisions describing these exemptions.

Manufacturer's certificates of origin. Currently, a person may not sell or otherwise transfer an ORV to a dealer — and a dealer may not buy or otherwise acquire an ORV — unless a manufacturer's certificate of origin is delivered to the dealer. The bill would change "ORV" to "OHV" in provisions pertaining to certificates of origin. [Note: Because a hovercraft would no longer be classified as an ORV or OHV, it would apparently no longer be subject to certificate of origin requirements.]

OHV titles. "ORV" would be changed to "OHV" in provisions concerning applications and fees for certificates of title. The bill would retain the current civil fine of not more than \$100 that may be imposed if someone commits the civil infraction of failing to apply for a certificate of title within 15 days of purchasing or acquiring an ORV. The bill would also retain the current fee of \$11 for processing an application for a certificate of title, the \$5 additional fee for expedited processing, and the \$10 penalty that may be collected in addition to the application fee if someone submits a bad check or draft to the Department of State to pay for a certificate of title.

Disposition of certificate of title fees. Currently, fees imposed under Section 81110 must be used to support the administrative costs of the Department of State. To the extent revenue under this section exceeds the Department of State's administrative costs, the excess must be credited to the Off-Road Vehicle Account. The bill would change "Off-Road Vehicle Account" to the "Off-Highway Vehicle Account."

Registration of OHVs. The Secretary of State would have to begin registering OHVs on January 1, 2011. As of April 1, 2011, an OHV owner would have to register it before operating it, if the OHV was subject to the registration requirement.

The application to register an OHV would be made on a form provided by the Department of State. The initial registration application for an OHV would be made with the dealer at the point of sale, if it was purchased from a Michigan retail dealer. The dealer would issue a temporary registration valid for 15 days after the sale. Each retail dealer would have to submit applications and fees to the Department of State at least once a week.

The registration application fee would be \$20. Applications would have to contain (1) the new owner's signature, name, and bona fide residence address; and (2) the names and addresses of the holders of any security interest in the OHV and its accessories in order of priority. Upon receipt of an application in approved form, the Department of State would enter the application into its records and issue the applicant a certificate of registration and decal. The certificate would have to contain the number given the OHV, the owner's name and address, other information considered necessary by the Department of State, and the name and address of security interest holders.

A person could not operate an OHV required to be registered in Michigan unless he or she possessed a legible certificate of registration. The registration certificate would have to be made available for inspection upon demand by a peace officer.

Exceptions. A registration certificate would not be required to operate an OHV on private property or on public property used for an organized OHV riding or racing event.

OHVs with uncertain ownership. If uncertain about the ownership of an OHV worth more than \$2,500, the Secretary of State could require the applicant to submit a surety bond as described below. If the Secretary of State was unsure about the ownership of an OHV worth \$2,500 or less, the applicant would have to certify that he or she owned and was entitled to register the OHV.

Surety bonds. If an OHV whose ownership was in doubt was worth more than \$2,500, the Secretary of State could require the applicant to file a properly-executed surety bond in an amount equal to twice the OHV's value as determined by the Secretary of State, in a form prescribed by the department. The surety bond would contain conditions to indemnify or reimburse the Secretary of State, any prior owner, and any subsequent purchaser of the OHV and their successors in interest against any expense, loss, or damage, including reasonable attorney fees, incurred as a result of the issuance of a registration certificate for the OHV or any defect in the right, title, or interest of the applicant in the OHV. An interested person would have the right of action to recover on the bond for a breach of the bond's conditions, but the aggregate liability of the surety to all persons could not exceed the amount of the bond.

The bond would be returned at the end of three years (or earlier if the OHV was no longer registered in Michigan and its certificate of registration was surrendered to the Secretary of State), unless the department had received notice of an action to recover on the bond.

Period of validity; renewal. An OHV registration certificate and decal issued before April 1, 2011, would be valid until March 31, 2014; a certificate and decal issued on or after that date would be valid for three years beginning on the date of issue. Certificates and decals could be renewed as provided in Section 81113g(2) for a \$20 fee.

Decal display. The registration decal would have to be displayed as prescribed by rule promulgated by the Department of State. A registration decal would not be required for

an ORV equipped with a registration plate issued by this state, another state, or a Canadian province.

Registration records. The Department of State could destroy OHV registration certificate records seven years after expiration. Registration information would be available to law enforcement through the law enforcement information network (L.E.I.N.).

Disposition of fees. Registration fees collected under Part 811 would be deposited in the Off-Highway Vehicle Account as provided in Section 2015, and allocated as provided in Section 81113d, as described below.

Delinquent payments; license suspension, additional fee. If a check, draft, or electronic payment of a required fee was not paid on its first presentation, the fee would be delinquent as of the date it was tendered, and the person would remain liable for the payment of the fee and any penalty. If the fee remained unpaid after reasonable notice or demand, the Department of State could suspend the person's operator's or chauffeur's license. If the fee remained delinquent 15 days after the department had given notice, a \$25 penalty would be assessed and collected in addition to the fee.

Disposition of penalties. Except as otherwise provided in Part 811, penalties collected under this section would be deposited in the General Fund and used first to defray the administrative costs of the Department of State under the registration provisions of Part 811. Any money not required for administration of the registration provisions of Part 811 would have to be credited each year to the Recreational OHV Trail Improvement Fund.

Grounds for revoking a registration. The department could cancel, suspend, revoke, or refuse to issue an OHV registration if any of the following occurred:

- The applicant failed to furnish all required information or reasonable additional information requested by the department.
- The registration fee was not paid.
- The applicant was not entitled to an OHV registration under Part 811.
- The department had issued the registration in error.
- The application contained a false or fraudulent statement.
- The Department of State had reasonable grounds to believe that the OHV had been stolen or embezzled.

Allocation of Part 811 registration fees. [Section 81113d] Except as otherwise provided in Part 811, revenue received from registration fees would be allocated as follows:

- Not more than \$3 from each registration fee collected would be appropriated to the Department of State for administration of OHV registration provisions. At the close of each state fiscal year, any money appropriated but not expended would be credited to the Recreational OHV Trail Improvement Subaccount.

- If less than \$3 from each registration fee was appropriated to the Department of State, the State Treasurer would have to transfer the difference between a \$3 per registration appropriation and the appropriated amount to the Recreational OHV Trail Improvement Account.
- Any money appropriated but not expended under this subdivision would have to be credited each year to the OHV Registration Fee Subaccount.
- The balance remaining of each registration fee would be deposited into the OHV Registration Fee Subaccount for purposes of Section 81113e (financial assistance for law enforcement).

Financial assistance for law enforcement. The DNRE would have to provide for an annual program of financial assistance to county sheriff departments and local law enforcement agencies for local OHV programs that would be required to include enforcement of Part 811. A county sheriff department or local law enforcement agency desiring to conduct a local OHV program would have to submit an estimate of authorized expenditures for the following calendar year in a prescribed form that contained required information to the DNRE by April 1 each year. The DNRE would review the entire request and could approve a request for financial assistance in part or whole.

Financial assistance based on number of lane miles open for OHV use. The amount of financial assistance would be determined by the DNRE based on a total lane mile formula for roads open for OHV use on April 1 of each year. The DNRE would not include within a county's lane miles any lane miles included within a city, village, or township that was also requesting and was eligible for financial assistance under Section 81113e. The DNRE would have to distribute at least one third of the funds available in the Registration Fee Subaccount to county sheriffs and local law enforcement agencies as provided by this section by May 15 of each year.

Allowed use of financial assistance; recordkeeping. Financial assistance allocated to a county sheriff department or local law enforcement agency would have to be used exclusively for the conduct of a local OHV program as provided by Part 811 and its rules. A county sheriff department or local law enforcement agency that received financial assistance under Part 811 would have to maintain records of the activities, expenditures, and in-kind contributions and submit documentation and reports to the DNRE by deadlines in a prescribed form with required information.

Summary of DNRE disbursements on Internet. The DNRE would have to post on its Internet site and, if requested, provide through the mail, a detailed summary of disbursements made under Part 811. Information provided regarding grants to private organizations for trail maintenance would have to include the amount of each disbursement, the name or description of the trail or portion of the trail to be maintained under the disbursement, and the name of the private organization receiving the disbursement. Information regarding funds disbursed for OHV safety education would have to include the name of each recipient and the amount of each disbursement made to

the recipient. Information regarding funds distributed to a law enforcement agency would have to include the name of the law enforcement agency and the amount of each disbursement to that law enforcement agency.

Rules. The DNRE could promulgate rules to implement Section 81113e concerning financial assistance and the required summary of disbursements under Part 811.

OHV Registration Fee Subaccount. Section 81113f of the bill would create the OHV Registration Fee Subaccount of the OHV account.

Registration decals. The owner of a registered OHV would have to affix the assigned registration decal to the rear half of the OHV. The form of the decal, prescribed by the DNRE, would include its expiration date, the registration number, and two letters and four numbers. The numbers would have to be distinctively visible and legible. No number other than the OHV's Michigan registration number (or a number from another state granted reciprocity) could be attached or otherwise displayed on the OHV. No earlier than 90 days before a registration expired, a new decal or other device could be issued indicating that the registration was in full force and effect.

Required notices; surrender of registration. An OHV owner would have to notify the Department of State within 15 days if his or her address changed, if the OHV was destroyed, abandoned, or sold, or if the owner transferred an interest in the OHV to another person. The owner would provide the required notice by surrendering the certificate of registration on which the proper information was noted.

- If the OHV had been destroyed or abandoned, the Department of State would cancel the certificate of registration, enter the reason in its records, and the number could be reassigned. The department could destroy the record of a surrendered certificate of registration beginning 10 years after its surrender.
- If the OHV owner's address had changed, the Department of State would record the new address and return a certificate showing the new address.

Registration by transferee. Within 15 days after acquiring an OHV, a transferee would have to apply to the Department of State for issuance of a new certificate of registration for the OHV, giving the previous registration number of the OHV, and proof of payment or satisfaction of any security interest shown on the previous owner's certificate of registration or in Department of State records.

The application fee would be \$20. The applications would have to contain (1) the new owner's signature, name, and bona fide residence address; and (2) the names and addresses of the holders of any security interest in the OHV and its accessories in order of priority. Upon receiving an application in approved form, the Department of State would enter the application into its records, and issue the applicant a new certificate of registration and decal.

Unless the application was made and fee paid within 15 days of the transfer of ownership, the OHV would be unregistered, and could not be operated until a valid certificate of registration was issued.

Duplicate certificates or decals. If a registration certificate was lost, mutilated, or illegible, the OHV owner would have to apply for and obtain a duplicate certificate for a fee of \$5. If a valid registration decal was lost, mutilated, or illegible, the OHV owner could, but would not be required to, obtain a replacement decal upon submission of proof of registration and payment of a fee of \$5.

Definitions. The bill would amend definitions in Parts 20 (Michigan Conservation and Recreation Legacy Fund), 711 (Recreation Improvement Fund), and 811 (Off-Road Recreation Vehicles):

Part 20

The "Off-Road Vehicle Account" of the Legacy Fund would be renamed the "***Off-Highway Vehicle Account***," as of the bill's effective date.

Part 711

References to an ORV or to the Off-Road Vehicle Account would be changed to an ***OHV*** or to the ***Off-Highway Vehicle Account***.

The term "Off-Highway Vehicle Registration Fee Subaccount" would mean "the Off-Highway Vehicle Registration Fee Subaccount of the Off-Highway Vehicle Account created in Section 81113f."

Part 811

"ATV" currently means "a 3-, 4-, or 6-wheeled vehicle designed for off-road use that has low-pressure tires, has a seat designed to be straddled by the rider, and is powered by a 50cc to 1,000cc gasoline engine or an engine of comparable size using other fuels." Under the bill the phrase "designed for *off-road* use" would be changed to "designed for *off-highway* use."

"Dealer" currently means "a person engaged in the sale, lease, or rental of an ORV as a regular business or, for purposes of selling licenses under section 81116, any other person authorized by the department to sell licenses or permits, or both, under this act." The bill would change "*ORV*" to "*OHV*."

The term ***"enforcement officer"*** would be defined as any of the following: a sheriff, sheriff's deputy, or individual authorized by a sheriff to enforce Part 811 who has satisfactorily completed at least 50 hours of law enforcement training, including training specific to Part 811; a village or township marshal, a municipal police officer, a state police officer, the director and conservation officers of the DNRE, and an MCOLES-certified law enforcement officer policing within his or her jurisdiction.

References to an "**ORV**" would also be changed to "**OHV**" in the terms "**late model ORV**," "**manufacturer**," and "**off-road vehicle account**."

The term "**ORV**" currently means "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, 4-wheel, or 6-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."

Under the bill, "**ORV**" would be changed to "**OHV**" throughout this definition and "ground effect air cushion vehicle" (hovercraft) would be removed from the OHV category. [Note: On p.9, lines 22-23, an OHV would still be referred to within this definition as a "motor-driven *off-road* recreation vehicle." To be consistent with other proposed changes, "off-road recreation vehicle" may need to be changed to "*off-highway* recreation vehicle."]

"**Other road**" would mean "a linear route capable of sustaining OHV traffic up to 72 inches in width that is not a highway or forest road. Other road includes, but is not limited to, former logging access roads, abandoned state or county roads, and abandoned railroad beds that are not dedicated for other uses."

"**Safety Chief Instructor**" currently means "a person who has been certified by a nationally-recognized ATV and ORV organization to certify instructors and to do on sight [sic] evaluations of instructors." Under the bill, "safety chief instructor" would mean "a person who has completed nationally recognized safety training for all OHV types."

Tie-bars. House Bill 6159 is tie-barred to House Bills 6160-6162, meaning that unless each of the bills is enacted into law, it would not take effect.

FISCAL IMPACT:

House Bill 6159 would require the DNRE to establish an annual program to provide financial assistance to County Sheriff Departments and local law enforcement agencies for local OHV enforcement programs. The bill would have an indeterminate fiscal impact on the DNRE. The amount of impact would depend upon whether there is any additional administrative workload or increased costs incurred from the bill's provisions that the Department is not reimbursed for from the OHV Registration Fee Subaccount.

Additional costs would be incurred from the following requirements of the bill: The Department is required to review the financial assistance requests from the various agencies around the state received by April 1 and may approve the request in part or in whole. The DNRE must distribute at least 1/3 of the funding in the Registration Fee Subaccount by May 15 of that year. The bill requires the Department to post on its internet site and provide through the mail when requested a complete listing of all disbursements made. In addition, the Department may promulgate rules concerning the program.

House Bill 6159 would have an indeterminate, but likely neutral, fiscal impact on the Department of State and local government. The provisions of the bill would require the Department of State to begin registration of off-highway vehicles which would require new forms and increased administrative costs. However, those costs would be offset by appropriating no more than \$3 from each registration fee collected to the Department of State for administration of the registration provisions. If less than \$3 of each registration fee is appropriated to the Department of State, the bill would allow the difference between what was appropriated and the \$3 to be deposited in the OHV Trail Improvement Subaccount. The balance of the registration fee would be placed in the OHV Registration Fee Subaccount to assist county sheriff departments and local law enforcement agencies for local OHV programs. At least one-third of the funds available shall be provided to the county sheriff departments or local law enforcement agencies by May 15 of each year. These payments would help offset any enforcement costs placed on the county sheriff departments and local law enforcement agencies under the provisions of this bill.

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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.