

OHV TRAIL PERMIT

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 6160

Sponsor: Rep. Joel Sheltrown

Committee: Tourism, Outdoor Recreation and Natural Resources

Complete to 5-18-10

A SUMMARY OF HOUSE BILL 6160 AS INTRODUCED 5-12-10

In general, this bill would replace the current requirement that an ORV be licensed with the DNRE or a dealer for an annual fee of \$16.25 with a requirement that the owner of an "OHV" obtain a trail permit from the DNRE or a dealer for an annual fee of \$30.50 for a 12-month period (April 1-March 31), adjusted every five years for inflation, beginning January 1, 2016. The bill would also do the following things:

- Require the Department of Natural Resources and Environment (DNRE) to use \$14.50 of each fee for departmental operations, enforcement, and special initiatives relating to Part 811 (Off-Road Recreation Vehicles).
- Require 50 cents from each fee collected by an authorized vendor to be paid to the vendor with the remaining revenue deposited in the current Off-Road Vehicle Account (to be renamed the Off-Highway Vehicle Account.)
- Eliminate the existing requirement that the ORV (OHV) plan be revised every two years and submitted to the Legislature for approval, and remove the provision allowing the plan to "designate where bicyclists, hikers, equestrians, and other nonconflicting recreation trail users may use ORV trails or areas."
- Require the DNRE to waive event permit requirements for events with 75 or fewer vehicles.
- Declare that OHV use "shall be considered a low-intensity impact on the OHV trail system."

[Note: The current definition of the term "ORV" is found in Michigan law in MCL 324.81101(o). A separate bill (House Bill 6159) would change the term "ORV" to "OHV" and modify the definition slightly, removing "ground effect air cushion vehicles" or hovercraft from the category. Generally speaking, with many exceptions, OHV would mean a motor-driven off-road or off-highway recreation vehicle capable of cross-country travel without the benefit of a road or trail, including multitrack or multiwheel vehicles, ATVs, motorcycles or related 2-wheel, 3-wheel, 4-wheel, or 6-wheel vehicles, amphibious machines, or other means of transportation not using muscle or wind power.]

DETAILED SUMMARY:

Trail permit requirement. Currently, unless an exception applies, it is unlawful for a person to operate an ORV on or over land, snow, ice, or other natural terrain, on a forest trail or in a designated area, or on the maintained portion of a road or street unless the ORV has a license from the DNRE or a dealer. The bill would change "ORV" to "OHV" and require that the OHV owner obtain a trail permit, instead of a license, for the OHV through the department or a dealer to be operated lawfully in those places.

Exceptions. Currently, a license is not required for an ORV used only in a safety training program. Under the bill, a trail permit would not be required for an OHV used exclusively in a safety training program[,] for operating an OHV on private property, or for operating an OHV on the frozen surface of a lake, river, or stream for the purpose of ice fishing.

Trail permit applications. Currently, the owner of an ORV requiring licensure must apply for a license from the DNRE or a dealer on forms provided by the department, and pay a fee of \$16.25. Under the bill, the owner of an OHV requiring a trail permit would have to apply for the trail permit from the DNRE or a dealer on forms provided by the department, and pay a fee of \$30.50. The OHV trail permit, like the ORV license it would replace, would be valid for a 12-month period beginning April 1 and ending March 31 each year. Beginning January 1, 2016, and every five years thereafter, the OHV trail permit fee would be adjusted for inflation during the previous five-year period using a specified index of consumer prices.

Throughout Section 81116, all references to a "license" would be changed to a "trail permit" and all references to an "ORV" would be changed to an "OHV."

Use of trail permit fees. Currently, under Section 81117, money in the Off-Road Vehicle Account may be used for the following things:

- Signage for and improvement, maintenance, and construction of ORV trails, routes, or areas.
- Administering and enforcing Part 811.
- Leasing land.
- Obtaining easements, permits, or other agreements for the use of land for ORV trails, routes, or areas.
- Restoring natural resources on public land damaged by ORV use in conjunction with the ORV plan required under Section 81123.

In addition, one dollar from every fee currently collected under Section 81116 must be used for the purposes of Sections 81129 and 81130, which appears to mean for safety education courses. This provision would be retained.

Under the bill, the reference to the "Off-Road Vehicle Account" in Section 81117 would be changed to "Off-Highway Vehicle Account" and all references to ORVs would be changed to OHVs. Money in the "Off-Highway Vehicle Account" would have to be used for the same purposes allowed under the existing "Off-Road Vehicle Account."

The bill also specifies that the DNRE would have to use \$14.50 of the revenue collected from each fee under Section 81116 for departmental operations, enforcement, and special initiatives relating to Part 811. This amount (\$14.50) would be adjusted every five years for inflation at the same time the trail permit fee (\$30.50) was adjusted for inflation.

Under Section 81117(h) of the bill, fifty cents from each fee collected by "an authorized vendor" (presumably, a dealer) would be paid to the vendor and all remaining revenue from each fee collected under Section 81116 would be deposited in the Off-Highway Vehicle Account. [We do not know whether this 50 cents is in addition to the 25 cents that a dealer is allowed to retain as a commission under Section 81119(7).]

The existing requirement that all funds allocated under Part 811 must be for projects open to the public would be retained.

Grants. Section 81119 currently requires the DNRE to distribute at least 50 percent of the money in the Off-Road Vehicle Account each year in the form of grants to public agencies and nonprofit incorporated clubs and organizations for planning, improving, building, maintaining, and placing signs on ORV trails, areas, and routes as well as for access to trails, areas, and routes, leasing land, obtaining easements, permits or other agreements for the use of land for ORV trails, areas, and routes. This section would be retained with all references to "off-road vehicles" or "ORVs" changed to "off-highway vehicles" or "OHVs."

The remaining Section 81119 provisions concerning allocation of revenue, including the 25 cents dealer commission mentioned earlier, would be retained, with all references to "ORVs" changed to "OHVs."

Dealer provisions. The bill would retain existing dealer requirements found in Section 81121 with a reference to "ORV" changed to "OHV." Among other things, this section requires dealers to maintain rental OHVs in safe operating condition, prohibits dealers from renting OHVs to persons believed to be incompetent to operate the vehicle safely, and to carry a specified amount of liability insurance.

OHVs not registered as motor vehicles. The bill would retain the current section prohibiting the operation of ORVs not registered as motor vehicles on public highways, streets, or rights-of-way except under county, township, or municipal

ordinances and other specified exceptions, with references to "ORVs" changed to "OHVs."

ORV plan. The bill would retain the current provision that requires the DNRE to develop a comprehensive plan for the management of ORVs, changing "ORV" references to "OHV" references, but would eliminate the requirement that the plan be revised every two years and submitted to the Legislature for approval. The bill would also remove the provision allowing the plan to "designate where bicyclists, hikers, equestrians, and other nonconflicting recreation trail users may use ORV trails or areas."

Trail map. The bill would retain the current provision that requires the department to prepare and make available trail maps in sufficient quantities to accompany each ORV certificate of title issued by the Secretary of State and to place in each county sheriff's office and each DNR field office. The bill would change "ORV" to "OHV" and "DNR" to "DNRE."

Waive permit for group event. Section 81125a of the bill would require the DNRE to waive the requirement for an event permit under Part 811 if there were 75 or fewer vehicles. However, any group having 20 or more vehicles would still have to provide notice to the DNRE under this section that it was having an event "in sufficient time to allow the department to coordinate activities with other groups or riders." (The existing event permit requirement, found in Section 81122(b), MCL 324.81122(b), allows a vehicle to be operated on a street or highway for a special event of limited duration conducted according to a prearranged schedule only under a permit from the governmental unit having jurisdiction. That section also allows a special event involving ORVs to be conducted on the frozen surface of public waters only under a DNRE permit.)

Declaration of "low-intensity" impact. The bill would declare that OHV use "shall be considered a low-intensity impact on the OHV trail system."

Repealer. The bill would repeal Section 81128 (MCL 324.81128), which refers to a now-defunct citizen's advisory group required to review ORV use in 1995.

Tie-bars. House Bill 6160 is tie-barred to House Bills 6159 and 6161-6162.

FISCAL IMPACT:

A fiscal analysis is in process.

Legislative Analyst: Shannan Kane
Fiscal Analyst: Viola Bay Wild

■ 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.