

Legislative Analysis



AIRPORT, HIGHWAY, & STREET RACING

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House Bill 6377 as introduced
Sponsor: Rep. Joel Sheltrown

House Bill 6378 as introduced
Sponsor: Rep. Jim Stamas

House Bill 6379 as introduced
Sponsor: Rep. Goeff Hansen

House Bill 6380 as introduced
Sponsor: Rep. Jim Slezak

House Bill 6381 as introduced
Sponsor: Rep. Richard LeBlanc

Committee: Tourism, Outdoor Recreation and Natural Resources
First Analysis (11-9-10)

BRIEF SUMMARY: House Bill 6377 would allow any municipality (defined as county, city, village, or township) to issue a permit for a motor vehicle racing event on highways, streets, or airport runways within its geographical jurisdiction. The bill would apply to any type of motor vehicle race sanctioned by a nationally- or internationally-recognized racing organization. House Bill 6377 would amend the City Motor Vehicle Racing Act of 1981 (and rename it the Municipal Motor Vehicle Racing Act). House Bills 6378 to 6381 would amend related references in other acts.

FISCAL IMPACT: The fiscal impact on the state and on local units of government is not readily determinable at this time.

THE APPARENT PROBLEM:

The City Motor Vehicle Racing Act of 1981 (Racing Act), MCL 257.1701 et seq., currently allows cities to issue permits for motor vehicle races held on city highways or streets. The Racing Act was originally enacted to allow a Formula One Grand Prix auto race on the streets of Detroit.

Some residents of Northville, Michigan, who call themselves "U.S. Open Road Racing," would like to sponsor an open road racing event over a course made up of 70 to 100 miles of temporarily-closed public roads or highways, along with a so-called shootout held on a closed airport runway. Open road racing is a form of high-speed racing generally held on a long course of closed, paved public highways or roads. Generally speaking, competitors sign up for a specific speed category, ranging from a low of about 80 or 90 miles per hour to a high of about 180 miles per hour, or they compete in the unlimited speed category. Drivers generally complete the course single file, with staggered start times. The winner of a specific speed category, say, the 180 mph category, is the driver whose average speed over the length of the entire course is closest to 180 mph. In the unlimited category, the winner is the driver who completes the course in the shortest time. A shootout is a side event or stand-alone event that allows drivers to find out their

vehicle's top speed by driving as fast as they possibly can for specified stretch, one or one-and-half miles long, of a closed airport runway or public highway.

The first open road racing event held in the U.S. in recent decades was the Silver State Classic Challenge. That race, held on a 90-mile stretch of Nevada's Highway 318 south of Ely, Nevada since the early 1980s, is described on its website (<http://www.sccc.us/>) as being for anyone (not just professional race car drivers) who wants "to experience firsthand the adrenaline rush of going flat-out on a public highway." Although some contestants drive high-performance race cars, others drive ordinary street vehicles or modified ones. This website also says that the May 2000 running of the Silver State Classic Challenge holds the world record for fastest road race based on the winning team's average speed of over 207 mph that year.

Another race of this type, the Sandhills Open Road Challenge in Arnold, Nebraska, is the event the bills' promoters say they want to emulate. They say the Sandhills event has the broad support of the host community, and that event organizers have donated over \$200,000 to the local community over the race's nine-year history. According to that race's website (<http://www.sorcrace.com/>), the course consists of 55 miles of closed county roads, and the speed categories range from 80 mph to unlimited. Competitors have at times posted speeds exceeding 220 mph. This website claims that the first ever shootout was held at as part of the Sandhills Open Road Challenge. The Sandhills road race, shootout, and related preliminary events, parades, and festivities, are held over several days.

Some people say that this type of road racing should be promoted in Michigan to boost Michigan's tourism sector and to help rural communities. Open road races would bring motor vehicle enthusiasts to Michigan for overnight stays lasting several days, during which they would spend money on lodging, food, drink, fuel, and entertainment. Race promoters might also make voluntary donations to host communities. The problem, they say, is that while the Racing Act gives clear authority to cities to close their streets for motor vehicle racing, that act does not provide similar authority to counties, townships, and villages. Rural paved highways or roads, not city streets, would be the best place for this type of open road race, and closed airport runways would be the best place for shootouts.

THE CONTENT OF THE BILLS:

House Bill 6377 would change the name of the Racing Act to the "Municipal Motor Vehicle Racing Act," extend the authority to issue racing event permits to any municipality (meaning a county, city, village, or township), and allow municipalities to issue racing event permits for races held at airports, as well as for those held on streets or highways. (A more detailed summary of HB 6377 is found below.) (MCL 257.1701 et al.)

The other bills in the package would revise references in other acts to reflect the new name of the Racing Act or to reflect that counties, villages, and townships would now have authority to authorize racing events held within their limits:

- House Bill 6378 would revise a provision in the Home Rule City Act that specifically refers to a city's authority to issue street racing event permits under the Racing Act. (MCL 117.4)
- House Bill 6379 would revise a provision in Public Act 368 of 1925 that exempts encroachments and obstructions erected under the Racing Act from PA 368's ban on obstructions on public highways. (MCL 247.191)
- House Bill 6380 would revise provisions in Public Act 200 of 1969 (an act regulating parades, celebrations, and festivals on highways) under which a city-issued Racing Act permit qualifies as a permit for all purposes under PA 200. (Note: Under that act, a permit issued by a city or a village is also permission as to state trunk lines located within that city or village's limits, if an appropriate state resolution provides for this.) (MCL 247.323, 247.326, & 247.329)
- House Bill 6381 would revise a provision in the Michigan Vehicle Code that exempts racing events conducted under the Racing Act from the Michigan Vehicle Code. (MCL 257.922a)

Tie-bars. House Bill 6377 is tie-barred to House Bills 6378-6381, meaning that it will not take effect unless all of those bills are enacted into law. House Bills 6378-6381 are each tie-barred only to House Bill 6377.

House Bill 6377

Title. The bill would change the title of the act from the "City Motor Vehicle Racing Act of 1981" to the "Municipal Motor Vehicle Racing Act." A "municipality" would mean a county, city, village, or township.

Permits. The act currently allows a city to issue a permit authorizing a racing event to be conducted on the highways or the streets within its limits and charge a reasonable fee for the permit. No person may conduct a racing event without a permit. "Racing event" means a motor vehicle¹ race sanctioned by a nationally or internationally recognized

¹ The Racing Act uses the definition of motor vehicle found in Section 33 of the Motor Vehicle Code, MCL 257.33. Section 33 defines motor vehicle as "every self-propelled vehicle" except for "electric patrol vehicles being operated in compliance with the Electric Patrol Vehicle Act" [MCL 257.1571-251.1577], and "electric personal assistive mobility devices." An "electric personal assistive device" is defined in Section 13c of the Michigan Vehicle Code, MCL 257.13c, as "a self-balancing nontandem 2-wheeled device, designed to transport only 1 person at a time, having an electrical propulsion system with average power of 750 watts or 1 horsepower and a maximum speed on a paved level surface of not more than 15 miles per hour." Segway, Inc. is one manufacturer of such devices.

racing organization, and includes the preparations, practices, and qualifications for the race. Before issuing a racing event permit, the city must determine that:

- The permit applicant has adequate liability insurance.
- Adequate security and necessary facilities will be provided.
- The permit applicant has demonstrated the ability to protect the health, safety, and welfare of the city's citizens and of those attending the event.

The bill would retain these requirements but change "city" to "municipality" wherever it appears, and allow a municipality to issue permits for racing events held on highways, streets, or at airports within the municipality's limits.

Street closings; traffic rerouting; ordinance waivers. In connection with a racing event, a city may (1) allow highways, streets, alleys, and sidewalks to be temporarily closed or obstructed; (2) reroute pedestrian and vehicular traffic; and (3) waive ordinances and traffic regulations, including speed limits and traffic control devices.

The bill would retain these provisions, changing "city" to "municipality," and adding airport runways to the list of places that may be temporarily closed or obstructed for a racing event.

Declaration of public purpose. Currently, racing events and any actions taken in preparation for the events are considered as being for "public purposes," such as the promotion of commerce and tourism and for the benefit of the citizens of the city and the state. The bill would retain this declaration, except that "for the benefit of the citizens of the city" would be changed to "for the benefit of the citizens of the municipality."

State and municipal immunity. The Racing Act says that a city that issues a permit for a racing event is not liable for any damages resulting from the racing event because of loss or injury to any person or property, and that, after a permit has been issued, the state is not liable for any damages that result from the racing event. The bill would retain this immunity provision, changing "city" to any "municipality."

Tie-bars. HB 6377 is tie-barred to HBs 6378-6381, and each of those bills is tie-barred to HB 6377, meaning that none of the bills would take effect unless all of the bills are enacted into law.

BACKGROUND INFORMATION:

One of the bills in the package, HB 6380, would amend Public Act 200 of 1969, which deals with permits to close state highways for parades or other events. Department of Transportation regulations promulgated under Public Act 200 of 1969 may be found online at:

http://www.michigan.gov/documents/mdot/Admin_Rules_booklet_186108_7.pdf

ARGUMENTS:

For:

Michigan's tourism sector and host communities could benefit from open road motor vehicle racing or other events. Proponents would like to bring open road racing to Michigan, with the Sandhills Open Road Challenge in Arnold, Nebraska, as their model. Unlike some open road races, the Sandhills event is held for the benefit of—and with the involvement of—the citizens of the host community. That race's organizers have reportedly donated over \$200,000 to the host community over the event's nine-year history. Although the bills do not require that any portion of event revenues be donated to host communities, the witnesses testifying in favor of the bill suggested that this is what they intend to do. Apart from any voluntary donations to host communities that event sponsors might make, the event itself could boost the economy of the host communities or surrounding areas because people attending the race or related events would need lodging, food, fuel, and entertainment over the course of several days.

Counties, townships, and villages—not just cities—should be allowed to close roads and highways for motor vehicle racing. Currently, the Racing Act specifically allows only cities to issue permits for road racing events because it was crafted to allow a Grand Prix Formula One racing event to be held on Detroit streets. Some people say the law should be expanded to allow other local units of government to issue permits for motor vehicle racing on public roadways, because paved rural highways or roads, not city streets, are most suited to open road racing course. Under the current law, it is hard or impossible for event organizers to get the permits they need.

Furthermore, open road races often have a 70-mile to 100-mile route along public roadways or roads that might cross through the geographical boundaries of many different federal (e.g., the U.S. Forest Service), state, and local governmental entities. It would be far simpler for event organizers to secure one permission at the county level, instead of securing permission from each governmental unit—federal, state, or local—with jurisdiction along the route.

Local units of government should be able to close airport runways for shootouts. Open road racing advocates say that airport runways are the safest places for shootouts—events in which participants go as fast as they possibly can for about a mile or mile-and-a-half on a closed highway or airport runway to find out their vehicle's top speed. Proponents would like local units of government to have the authority to close airport runways for this purpose.

Against:

The bill is unnecessary. Although the Racing Act does not specifically mention local units of governments other than cities, other local units of government may already have authority under other constitutional or statutory provisions to close roadways under their control for special events. Certain road races are already being held on rural gravel roads in Michigan. One is the Sno*Drift Rally (<http://www.sno-drift.org/>), whose slogan is "real cars, real fast, on real roads" held near Atlanta, Michigan, in Montmorency County

in the Northern Lower Peninsula. Another is the Lake Superior Performance Rally (<http://www.lsprorally.com/>), held in the Upper Peninsula. The Lake Superior Rally is a successor to the legendary "Press on Regardless" races previously held in the Upper Peninsula. If these racing events already exist on public roads in rural parts of Michigan, presumably with the permission of pertinent governmental units, does the Racing Act truly need to be amended, or do event promoters simply need to secure permission from all of the necessary governmental units (federal, state, or local)?

Local units of government can't be given authority to close airports that are not under their control. As written, the bills purport to grant the county, city, township, or village in which an airport sits the authority to close one or more runways for a motor vehicle racing event without permission from the Federal Aviation Administration (FAA), from the Michigan Department of Transportation, or even from the owner or operator of the airport. (A few airports are entirely privately owned and operated.)

According to the FAA, airport sponsors agree to certain obligations when they accept federal grant funds or property transfers for airport purposes. The FAA enforces these obligations through its airport compliance program. These rules prohibit the non-aeronautical use of an airport without the FAA's permission. Non-compliance with FAA rules could lead to loss of an airport's federal funds. As Michigan is a block grant state, the Michigan Department of Transportation must also give permission for the non-aeronautical use of an airport. If the bills move forward, the reference to airports should be removed, or, at the very least, the bills should be revised to require event sponsors to secure permission from the FAA, MDOT, and the airport's owner or operator to close runways for motor vehicle races.

Local units of government can't be given authority to close roadways that are not under their jurisdiction. As written, the bills purport to give a "municipality" (meaning a county, city, village, or township) the authority to close any street or highway located within its geographical limits, whether or not the municipality has legal jurisdiction over the street or highway. The Michigan Department of Transportation, the Michigan Municipal League, and the Michigan Townships Association all strongly object to this aspect of the bills. For example, a race promoter could secure permission from *county* officials to close a stretch of an interstate highway, a state highway, a U.S. Forest Service road, or a city or village street that passes through the county, but over which the county does not have jurisdiction. Similarly, a city, village, or township could issue a permit for a racing event to be held on an interstate highway, state highway, U.S. Forest Service Road, county road, or other roadway that it does not control.

Permits are available from the U.S. Forest Service for special events held in national forests, after a review of environmental and safety considerations, but local units of government cannot issue permits for events on Forest Service roads or any other highways, streets, or roads that might fall within their geographical boundaries but over which they do not have jurisdiction.

Any local unit of government whose citizens would be affected by a racing event should have a say as to whether it takes place. According to a description of a hypothetical

open road race provided by the bills' promoters, the entire 70 to 90 mile route would be closed from 7:30 a.m. to 11:00 a.m. and from 12:30 p.m. to 4:00 p.m. on the day of the race, shutting down commerce along the route and preventing people from entering or leaving their homes for about seven hours that day (local traffic would be allowed to move between 11 a.m. and 12:30 p.m., and again after 4:00 p.m.). These same or other roadways might also have to be closed for preliminary events, parades, or other festivities associated with the event. Local law enforcement officers, firefighters, and other emergency responders might be called upon to assist with the event by providing security, closing off roads, posting signs or barriers, and being on call to respond to emergencies. The emergency rooms of local hospitals might have to be prepared to deal with crash victims or higher than normal usage based on big crowds. Because of these and other local considerations, any local community that would be affected by this type of event should be allowed to approve or disapprove it.

This is especially important because the bills would open the door to virtually any type of motor vehicle racing event imaginable, not just the type of event described in committee testimony. Given the variety of forms these events could take, local communities must have a voice as to whether such events take place in or pass through their communities on a case-by-case basis.

Because open road racing involves very high speeds, environmental, safety, liability, insurance, and other concerns warrant further review. Although the bills' supporters characterized open road racing as a "precision event" not a "speed event," this type of racing generally involves very high speeds. For example, in the Silver State Classic Challenge held in Nevada, contestants enter the race in categories ranging from 95 to 180 mph, or in the unlimited class. The record in the unlimited category, set in May, 2000, is held by a team that averaged over 207 mph for the entire course. Even if a Michigan race were held at somewhat lower speeds, the speeds would still be high.

Apart from the environmental issues inherent in high-speed motor vehicle racing, this type of high-speed racing presents safety, liability, insurance, and legal issues that warrant more review. For example, would injured contestants and bystanders be eligible for no-fault insurance benefits? Would children or unlicensed drivers be allowed to participate? Would the Michigan Vehicle Code exemption for racing events found in House Bill 6381 mean that contestants who participated under the influence of alcohol or drugs and who caused accidents that killed or injured other people could not be prosecuted? Would homeowners and businesses deprived of access to their property on race days be entitled to compensation?

The bills' proponents might not qualify as racing event sponsors. To be covered by the Racing Act, even as it would be amended by the bills, an event must be sanctioned by a nationally- or internationally-recognized racing organization. The promoters who testified on behalf of the bills call themselves "U.S. Open Road Racing," headquartered in Northville, Michigan. This organization does not appear to have sponsored a racing event or to be affiliated with any other nationally- or internationally-recognized racing organization. Unless the bill is amended, the bills' proponents are likely ineligible to sponsor a racing event under the Racing Act.

Although the committee heard from open road racing advocates, the bills would allow virtually any type of motor vehicle racing on public roadways subject to minimal and vague statewide regulation. The Racing Act's definition of "motor vehicle" includes just about any type of self-propelled vehicle imaginable, with two narrow exceptions for electric patrol vehicles and personal assisted mobility devices (Segways). Thus, the bills could allow public roadways and airport runways to be closed for races of monster trucks, school buses, ATVs, SUVs, dune buggies, go-carts, motorcycles, dirt bikes, snowmobiles, riding lawnmowers, tractors, hovercraft, and virtually any other conceivable form of self-propelled vehicle, so long as the event were sanctioned by a nationally- or internationally-recognized racing organization. The few regulations contained in the act are general and vague, allowing local units of government and event organizers a free hand in negotiating permit requirements. A local unit of government eager for tourists or dominated by a well-organized group of racing enthusiasts would be free to allow public roads to be closed for just about any type of race imaginable with minimal safety precautions.

No provision of the Michigan Vehicle Code (which addresses such things as driver licenses, seatbelts, and driving under the influence) would apply to racing event participants because House Bill 6381 would exempt racing events from the Michigan Vehicle Code altogether. [An existing provision found in a Michigan law enacted in 2008,² already waives the minimum age for participating in an organized ORV racing or riding event, and the requirement of safety training for children under 16 who participate in many ORV racing or riding events.]

Some people say that a recent fatal crash in the "California 200" race, held in the Mojave Desert on August 14, 2010, illustrates the deadly consequences of a poorly-run or poorly-regulated motor vehicle or ORV race. That race, conducted on a 50-mile off-road circuit in the Mojave Desert, was sanctioned by the Mojave Desert Racing Association, and conducted under a permit issued by the federal Bureau of Land Management. A competitor driving a modified Ford Ranger lost control of his vehicle, went airborne, and crashed into a crowd of onlookers, killing eight people and seriously injuring 12. According to the *Los Angeles Times*, "both avid off-roaders and opponents of the sport criticized the lack of safety precautions. Some blamed the promoter of the 200-mile nighttime race for allowing spectators to get so close, while others singled out the federal Bureau of Land Management for sanctioning such events and fostering a "Mad Max" environment that was bound to turn deadly." See *Deadly crash stirs off-road racing debate*, Los Angeles Times, August 16, 2010,

<http://articles.latimes.com/2010/aug/16/local/la-me-california-200-20100816>.

POSITIONS:

Representatives of "U.S. Open Road Racing," Northville, Michigan, testified in support of the bills. (8-24-10)

² Section 81129(18) of the Natural Resources and Environmental Protection Act, MCL 324.81129(18), added by Public Act 164 of 2008.

The Michigan Municipal League indicated a neutral position on the bills pending floor amendment. (8-24-10)

The Michigan Townships Association testified as to a neutral position on the bills. It seeks an amendment allowing each affected unit of government to sign off on a race. (8-24-10)

Representatives of the Michigan Department of Transportation testified in opposition to the bills as written. (8-24-10)

The Michigan Insurance Institute is opposed to the bills. (10-1-10)

Legislative Analyst: Shannan Kane
Fiscal Analyst: William E. Hamilton

■ 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.