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BILL ANALYSIS



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Senate Bill 1020 (as introduced 3-15-12)
Sponsor: Senator Tom Casperson
Committee: Transportation

Date Completed: 9-24-12

CONTENT

The bill would amend Part 811 (Off-Road Recreation Vehicles) of the Natural Resources and Environmental Protection Act to do the following:

- **Permit the county board of commissioners of an eligible county to adopt an ordinance authorizing the operation of off-road vehicles (ORVs) on the maintained portion of a State trunkline highway, under certain conditions.**
- **Make the operation of an ORV on a highway subject to provisions that govern the operation of an ORV on a road or street.**
- **Require 50% of the fine revenue for a violation of an ordinance under the bill to be appropriated to the Michigan Department of Transportation (MDOT) to repair damage and post signs regarding ORV operation.**
- **Require the Department of Natural Resources (DNR) to designate at least two days each year as free ORV-riding days, during which ORV licensure would not be required.**

Operation of ORV on Highway

Part 811 allows the county board of commissioners of an eligible county to adopt an ordinance authorizing the operation of ORVs on the maintained portion of one or more roads within the county. Similarly, the board of a township located in an eligible county may adopt an ordinance authorizing the operation of ORVs on the maintained portion of one or more roads within the township. ("Eligible county" means any of the following counties: Gratiot, Montcalm, Newaygo, Oceana, Saginaw, Sanilac, Tuscola, or any county lying north of those counties, including all of the counties of the Upper Peninsula; or St. Clair County.)

Under the bill, the county board of commissioners of an eligible county also could adopt an ordinance authorizing the operation of ORVs on the maintained portion of one or more highways located within the county. ("Highway" would mean a State trunkline highway other than an interstate highway.)

At least 45 days before the board held a public hearing on the ordinance, the county clerk would have to send notice of the hearing, by certified mail, to MDOT and, if State forestland were located in the county, to the DNR. The notice to MDOT would have to solicit that Department's comment on environmental and public safety issues related to the proposed ordinance. The county board could authorize operation of an ORV only on a stretch of highway that met at least one of the following criteria:

- Served as a connector between ORV areas, routes, or trails.
- Provided access to tourist attractions, food service establishments, fuel, or other services, and extended from the end of an ORV route or trail for a maximum of 10 highway miles, unless the board determined that a longer distance was necessary to provide sufficient access to food service establishments, fuel, or other services.
- Served as a connector between two segments of the same county road that ran along discontinuous town lines.
- Included a bridge that allowed an ORV to cross a stream, wetland, or gully that was not crossed by a road or street on which ORVs were authorized to operate.

The bill would include references to an ORV operated on a highway in provisions that govern the operation of an ORV on a road or street, such as provisions that set speed limits and require operation with the flow of traffic.

Part 811 provides that a township that has authorized the operation of ORVs on a road does not have a duty to maintain the road in a condition reasonably safe and convenient for the operation of ORVs. A board of county road commissioners, a county board of commissioners, or a municipality does not have a duty to maintain a road or street under its jurisdiction in a condition reasonably safe and convenient for the operation of ORVs, except those registered as motor vehicles and those permitted by a municipal ordinance allowing a permanently disabled person to operate an ORV. Under the bill, these provisions also would apply to a county that authorized the operation of ORVs on a highway.

A violation of an ORV ordinance is a municipal civil infraction. The ordinance may provide for a maximum fine of \$500 for a violation. In addition, the court must order the defendant to pay the cost of repairing any damage to the environment, or to a road or street or public property. Under the bill, these penalties also would apply to a person who committed a violation while operating an ORV on a highway under a county ordinance.

The treasurer of the local unit of government must deposit the fines and damages collected for violations into a local ORV fund. The local unit's legislative body must appropriate revenue in the fund as follows:

- Fifty percent to the county sheriff or police department responsible for law enforcement in the local unit of government, for ORV enforcement and training.
- Fifty percent to the board of county road commissioners or, in the case of a city or village, to the department responsible for street maintenance, for repairing damage and posting signs regarding the operation of ORVs.

The bill provides that if a fine were collected for a violation of a county ordinance authorizing ORV operation on a highway, 50% of the fine revenue would have to be appropriated to MDOT, rather than the board of county road commissioners or a municipal department.

The bill would require MDOT to post signs indicating highways on which ORV use was authorized under a county ordinance.

Free ORV-Riding Days

Except as otherwise provided, Part 811 prohibits a person from operating an ORV under any of the following conditions, unless the ORV is licensed with the DNR or a dealer:

- On or over land, snow, ice, or other natural terrain.
- On a forest trail or in a designated area.
- On the maintained portion of a road or street.

The bill also would refer to the maintained portion of a highway.

Under the bill, licensure would not be required on a free ORV-riding day. The DNR would have to designate a Saturday and the following Sunday each year as free ORV-riding days. In addition, the Department could designate one or two consecutive other days as free ORV-riding days. The free ORV-riding days would have to correspond to free fishing days designated by the Department. A person operating an unlicensed ORV during a free ORV-riding day would have the same privileges and be subject to the same rules and regulations as a person operating a licensed ORV.

(Under Part 435 (Hunting and Fishing Licensing) of the Act, the DNR must designate a Saturday and the following Sunday during January or February of each year as free winter fishing days, and may designate an additional one or two days per year as free fishing days. During these days, a person may fish for all species in waters designated by the Department without purchasing a license or permit.)

MCL 324.81115 et al.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill could have an indeterminate fiscal impact on both the Department of Transportation and local road agencies. The cost to MDOT to make repairs to highways caused by ORVs could far exceed the potential revenue that would be generated by the proposed fines. Additionally, there would be a cost to MDOT associated with the required posting of signage regarding ORV use. The Department has stated that the costs to post signs (such as those indicating gas/food/lodging) averages \$600 per sign. Again, the costs to post these signs could outweigh the revenue generated from the proposed fines. The potential costs to MDOT depend on the number of county boards of commissioners that ultimately adopted an ordinance allowing the operation of ORVs on highways.

The bill also could place additional costs on local road agencies associated with environmental and incidental road damage caused by the use of ORVs on highways. Although local agencies are reimbursed by MDOT for particular maintenance and road repair costs they incur, the Department reimburses only a certain percentage of those costs, depending on the amount appropriated for those reimbursements in the Department's annual budget. If the costs to local agencies exceed the amount reimbursed by MDOT, the local agencies must absorb that cost. The potential cost to local road agencies depends on the number of county boards of commissioners that ultimately adopted an ordinance allowing the operation of ORVs on highways.

The bill would likely have a minimal effect on the amounts received for ORV licenses by the Department of Natural Resources (DNR). It is likely that residents of Michigan who own ORVs already purchase annual licenses for them, as the licenses are a relatively small marginal cost when compared to the cost of fuel, maintenance, and insurance and the fixed cost of acquisition of an ORV. It is likely, then, that the only impact the bill would have on the DNR is that people from out of State could come and use Michigan's trails for free on free ORV riding days. The amount of revenue lost would likely be small, however, as many of the out-of-State ORV users who would take advantage of the free ORV riding days would likely not purchase an annual ORV license otherwise.

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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.