

ALLOW ORV USE ON STATE TRUNK LINE HIGHWAYS

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House Bill 4284 as enacted

Public Act 117 of 2013

Sponsor: Rep. Joel Johnson

House Committee: Tourism

Senate Committee: Natural Resources, Environment and Great Lakes

Complete to 4-16-14

A SUMMARY OF HOUSE BILL 4284 AS ENACTED

The bill allows authorized local units of government to adopt ordinances that permit the operation of ORVs on the shoulders of state trunk line highways. It is an amendment to Part 811 (Off-Road Recreation Vehicles) of the Natural Resources and Environmental Protection Act.

Currently, Part 811 allows the county board of commissioners of an eligible county, the township board of a township located within an eligible county, and the legislative body of a city or village located within an eligible county, to adopt an ordinance authorizing the use of ORVs on the maintained portion of one or more roads located within their respective jurisdictions. All county primary and local roads, or city major and local streets, are eligible for such a designation. [Public Act 118 of 2013 allows such ordinances to be adopted in all counties in the state.]

Under House Bill 4284 the legislative body of a local unit of government can request the Michigan Department of Transportation to allow the local unit to adopt an ordinance allowing ORVs to be operated on a highway (except for interstate highways). Any request must describe how authorization from the department meets the requirements of subsection 7, which generally require authorization to connect trails, provide access to tourist destinations, connect certain roads, or allows an ORV to cross a river or stream.

The department is required to solicit comment from itself, ORV clubs, and local units where the highway is located. A determination must be made within 60 days of receiving it. Counties could submit requests on behalf of local units of government located within the county. Prior to January 1, 2015, the department could authorize the use of ORVs on state highways on its own initiative and without receiving a request from a local unit of government.

The department would have to authorize ORV use only a highway that is not an interstate highway and that meets one or more of the following:

- Serves as a connector between ORV areas, routes, or trails designed by the department or a user group.

- Provides access to tourist attractions, food service establishments, fuel, motels, or other services.
- Serves as a connector between two segments of the same county road that run along discontinuous town lines and on which ORV use is authorized.
- Includes a bridge or culvert that allows an ORV to cross a river or stream that is not crossed by a street or county road.

The department could close a highway after providing written notice to the clerk of each local unit where the highway is located and to the House and Senate committees with primary responsibility for natural resources, recreation, and transportation. Notice would have to be provided 30 days prior to closure and must provide specific reasons for closure.

ORV operators could ride on authorized highways with the flow of traffic as follows:

- On the right shoulder of the highway.
- If there is not a right shoulder or if the shoulder is of inadequate size, on the right unmaintained portion of the highway.
- On the far right of the right traffic lane of the highway, if necessary to cross a bridge or culvert and the operator comes to a complete stop before entering the roadway and yields to any approaching vehicle in that traffic lane.

Notice of public hearing

Previously, a public hearing was required before a county, township, or municipality could adopt an ordinance allowing ORV use on the sides of roadways, and the respective township clerk must provide notice of the hearing to the county road commission. House bill 4284 also requires that notice be provided to the legislative body of each township or municipality within the county, and to the Michigan Department of Transportation if the road intersects with a state highway.

Duty to maintain roadway

The bill clarifies that the state does not have a duty to maintain the highway in reasonable repair so that it is reasonably safe and convenient for the operation of ORVs.

Appropriation of fine revenue

Fines for violations on roads and streets under local jurisdiction and collected by a local unit of government currently are appropriated half for local law enforcement and half for local road maintenance. The bill, however, requires that for violations that occur on a state highway, that half of the fines collected be appropriated to the state Department of Transportation (rather than a county or city) and used to repair damage to streets, county roads, and highways.

Rule or order violation

Anyone who violates a promulgated rule or order issued under subsection 6 of the bill (which is the subsection creating the process for allowing ORV use on a highway) would be responsible for a state civil infraction and could be required to pay a maximum civil

fine of \$500. Individuals would also be required to pay the cost of repairing any damage the environment, a highway, or public property as a result of the violation.

FISCAL IMPACT:

As noted earlier, fines for violations on roads and streets under local jurisdiction and collected by a local unit of government currently are appropriated half for local law enforcement and half for local road maintenance. The bill, however, requires that for violations that occur on a state highway, that half of the fines collected be appropriated to the state Department of Transportation (rather than a county or city) and used to repair damage to streets, county roads, and highways.

BACKGROUND INFORMATION AND DISCUSSION:

Prior to the passage of this legislation, jurisdictions in eligible counties were able to adopt ordinances authorizing the operation of ORV on the maintained portions of one or more county primary or local roads, and city major or local streets within their respective jurisdictions.

House Bill 4284 allows local units of government to adopt ordinances allowing for the operation of ORVs on the shoulders of state trunk line highways located within their jurisdiction. To be eligible, a local unit of government must get authorization from the Michigan Department of Transportation (MDOT). MDOT can only authorize an ordinance (1) where necessary to connect the shoulders of roads or other authorized routes that are permissible for ORV travel, or (2) to complement local ORV ordinances and transportation networks.

According to testimony, the bill is intended to allow for limited ORV use on state trunk line highways in order to connect recreational ORV trails. In some areas of Michigan, the trail system is fragmented and, in order to travel from one trail to another, ORV users would need to travel for limited distances on the shoulders of state trunk line highways.

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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.