



Senate Fiscal Agency  
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Senate Bills 209 through 211 (as passed by the Senate)  
Sponsor: Senator Ed McBroom  
Committee: Natural Resources

Date Completed: 10-20-22

### **RATIONALE**

Some individuals, as a result of medical conditions, are unable to use legally prescribed safety equipment, such as seatbelts. Under the Michigan Vehicle Code, if an individual is unable to wear a seatbelt for medical reasons, his or her physician may issue a verification of that fact for the individual. The Natural Resources and Environmental Protection Act (NREPA) prescribes similar safety equipment requirements, namely a requirement to wear a helmet, for individuals who operate off-road vehicles (ORVs). Some have noted that this requirement could exclude from recreational activities individuals who, as a result of a physical or medical condition, are unable to wear a helmet. Accordingly, it has been suggested that an individual be allowed to ride an ORV without a helmet if a physician issues a written verification that he or she is unable to do so.

### **CONTENT**

**Senate Bill 210 would amend Part 811 (Off-Road Recreation Vehicles) of NREPA to do the following:**

- Allow an individual to ride an ORV without a crash helmet or protective eyewear if he or she possessed a written verification from a physician that he or she could not, for physical or medical reasons, wear a helmet.
- Require an individual to exhibit the written verification upon the request of a peace officer.

**Senate Bill 211 would amend Part 821 (Snowmobiles) of NREPA to do the following:**

- Allow an individual to operate or ride a snowmobile without a helmet if he or she possessed a written verification from a physician that he or she could not, for physical or medical reason, wear a helmet.
- Require an individual to exhibit the written verification upon the request of a peace officer.

**Senate Bill 209 would amend the Revised Judicature Act to specify that a physician would not be liable for civil damages that resulted from the physician's provision of or failure to provide a written verification that an individual who was under his or her care was unable, for physical or medical reasons, to wear a crash helmet, safety belt, or both.**

### **Senate Bill 210**

Generally, Part 811 of NREPA prescribes certain requirements for operating an ORV. Currently, an individual who is operating or is a passenger on an ORV must wear a crash helmet and protective eyewear that are approved by the US Department of Transportation (USDOT). These requirements do not apply to any of the following:

- An individual who owned the property on which the ORV is operating, is a family member of the owner and resides at that property, or is an invited guest of the property owner, subject to certain exceptions.
- An individual wearing a properly adjusted and fastened safety belt if the ORV is equipped with a roof that meets the USDOT standards for a crash helmet.
- An ORV operated on a State-licensed game bird hunting preserve at a speed of 10 miles per hour or less.
- An ORV operated for towing a fishing shanty or supply shed over the frozen surface of public waters at the minimum speed required to maintain control of the ORV at a speed of 10 miles per hour or less.

Under the bill, the requirement for an ORV operator or passenger to wear a USDOT-approved crash helmet and protective eyewear would not apply to an individual who possessed a written verification from a physician that he or she, for physical or medical reasons, was unable to wear a helmet. The individual would have to exhibit the written verification upon the request of a peace officer.

### **Senate Bill 211**

Under Part 821 of NREPA, a person operating or riding on a snowmobile must wear a crash helmet approved by the USDOT; however, this requirement does not apply if the person is riding on or operating a snowmobile on his or her private property. Under the bill, the requirement also would not apply to a person who possessed a written verification from a physician that he or she, for physical or medical reasons, was unable to wear a helmet. The individual would have to exhibit the written verification upon the request of a peace officer.

### **Senate Bill 209**

The bill would amend the Revised Judicature Act to specify that a physician would not be liable for civil damages that resulted from the physician's provision of or failure to provide a written verification that an individual who was under his or her care was unable, for physical or medical reasons, to do one or more of the following:

- Wear a safety belt, as described in Section 710e of the Michigan Vehicle Code.
- Wear a helmet as described in Sections 81133 or 82123 of NREPA.

(Generally, the Vehicle Code requires operators and passengers of motor vehicles to wear safety belts, unless any of the exemptions to this requirement within the Code apply. Section 710e of the Code exempts an operator or passenger from the safety belt requirement if the operator or passenger has a written verification from a physician that the operator or the passenger is unable to wear a safety belt for physical or medical reasons.

Likewise, NREPA generally requires an individual operating an ORV or a snowmobile to wear a crash helmet approved by the US Department of Transportation. The Act provides certain exemptions to the helmet requirement when using an ORV.)

Proposed MCL 600.2980 (S.B. 209)  
 MCL 324.81133 (S.B. 210)  
 MCL 324.82123 (S.B. 211)

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

**Supporting Argument**

The Michigan Vehicle Code allows an individual who cannot wear a seatbelt because of a physical or medical condition not to do so if he or she has a written verification from his or her physician. Recreational activity, including operating ORVs, is a hobby for many, including individuals with physical or medical conditions. An individual's inability to wear a helmet should not preclude that individual from operating an ORV if he or she otherwise is able to operate it safely. Accordingly, an individual should be able to legally operate an ORV without a helmet if his or her physician issues a written verification.

Moreover, the bills would provide liability protections for physicians who provide or fail to provide a written verification that an individual who was under his or her care was unable, for physical or medical reasons to wear a seatbelt, as currently allowed under the Code or a helmet (as the bills would authorize). This would ensure that physicians could issue those verifications without having to worry about being subject to damages from a civil suit.

**Opposing Argument**

While it is important to accommodate individuals who are disabled or have medical conditions, it is imprudent to allow individuals not to wear helmets while engaging in dangerous activities when alternatives exist. Modern orthotics allow for the creation of suitable head protection or helmets for any individual. In fact, it is common for individuals with medical conditions that require the use of a helmet to protect against injury in their daily life to be fitted for a helmet. Accordingly, there is no medical reason why an individual who is not able wear a regular helmet could not be fitted for a custom-made helmet sufficient for outdoor recreational purposes.

Legislative Analyst: Eleni Lionas

**FISCAL IMPACT**

The bills would have no fiscal impact on State or local government.

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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.