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BILL ANALYSIS



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Senate Bill 206

Sponsor: Senator John J. H. Schwarz, M.D.

Committee: Natural Resources and Environmental Affairs

Date Completed: 2-14-95

SUMMARY OF SENATE BILL 206 as introduced 2-1-95:

The bill would amend the off-road vehicle (ORV) Act, to:

- Reinstatement provisions concerning the allocation of revenue in the ORV Trail Improvement Fund, the creation of the ORV Trails Advisory Committee, and the exemption of the Upper Peninsula from certain requirements. These provisions were repealed on January 1, 1995.
- Specify procedures for submitting revisions to the comprehensive system plan to the Legislature for approval.
- Impose a deadline on the development of an ORV safety education and training program and change the effective date for the requirement concerning possession of an ORV safety certificate.
- Prohibit a person from operating an ORV in an area in which public hunting is permitted during the regular November firearm deer season, except in certain circumstances. Currently, the prohibition applies to the operation of an ORV during the public hunting season open to the taking of deer, elk, or bear.

ORV Trail Improvement Fund

The bill specifies that at least 40% of the revenue in the ORV Trail Improvement Fund would have to be distributed yearly to public agencies and nonprofit incorporated clubs and organizations as grants for planning, improving, constructing, signing, and maintaining ORV trails, areas, and routes, and access to them; the leasing of land; and the acquisition of easements, permits, or other agreements for the use of land for ORV trails, areas, and routes.

An application by an agency or a nonprofit club or organization would have to include a plan for restoration of any of the State's natural resources on public land that were damaged due to ORV use. The public agency or nonprofit organization would have to indicate that its use of the grant money was consistent with, and met the requirements of, the comprehensive plan for the management of ORV use of certain areas or routes maintained under the jurisdiction of the Department of Natural Resources (DNR) or a local government, as developed by the DNR pursuant to the Act, and that the trail, route, or area was available to the public. The Department could not approve a grant unless the application met the plan's requirements, and would have to consider grant requests yearly in consultation with the ORV Trails Advisory Committee. A grant could not be made for a trail, route, or area unless the trail, route, or area was available for ORV use and was approved by the DNR. A grant for the cost of leasing of land and the acquisition of easements,

permits, or other agreements could equal 100% of incurred expense. Specifications would have to be prescribed by the Department.

At least 30% of the Fund's revenue in any year would have to be used for the enforcement of the ORV Act. Of this amount, the DNR would have to make available funds for distribution as grants by the Department to the county sheriffs' departments in the following percentage amounts: 60% of the funds available for the first year of operation; 50% of the funds available in the second year; and, 40% of the funds available in the third and subsequent years. The balance of the available funds would have to be used by the Department. In making grants available for distribution under this provision, the DNR would have to consider the following factors:

- The number of miles of ORV trails, routes, or areas within the county.
- The number of sheriff's department employees available for enforcement of the Act.
- The estimated number of ORVs within the county and brought into the county for ORV use.
- The estimated number of days that ORVs could be used within that county.
- Any other factors considered appropriate by the Department.

The DNR would have to require a county sheriff receiving a grant to maintain records and submit an annual report to verify expenditure of the grant money that was received.

At least 20% of the Fund's revenue in any year would have to be distributed as grants to public agencies and nonprofit incorporated clubs and organizations for the restoration of damage that was caused by ORV use to natural resources on public land. An application for these grants would have to comply with the bill's provisions on applications for grants from the Fund. The bill specifies that grants provided for under this provision could be in addition to grants for planning, constructing, improving, and maintaining ORV trails and areas and their access as well as for leasing land, and acquiring easements, permits or other land use agreements for ORV trails, areas, and routes.

Not more than 5% of the Fund's revenue in any year could be used for administering the Act.

The remainder of the Fund's revenue in any given year could be used for enforcement purposes or for grants for trail construction and maintenance, leasing, and easements. If the remainder of the Fund were used for enforcement, it would have to be allocated as provided in the bill.

Grants would remain available until spent once a contract or commitment had been entered into under the bill. A contract would be for up to two years. A grant not spent within the contract period could be renewed by the Department's entering into a new contract.

ORV Trails Advisory Committee

The ORV Trails Advisory Committee would be created within the DNR to assist the Department in developing criteria for grants, nominate forest roads to be included as ORV routes, nominate forest trails, and assist the DNR in promulgating rules and developing the comprehensive plan for management of ORV use that the Department was required by the Act to develop. The Committee also would be required to advise the Department on recommendations made by ORV users of forest trails, roads, and areas that should be designated for ORV use.

The Committee would consist of six members appointed by the DNR Director. Three members would represent ORV trail users and dealers; two would represent natural resources, conservation, or environmental groups; and one would represent law enforcement. At least one member would have to be from the Upper Peninsula. Members would have to be appointed for three-year terms, except that of the members first appointed, one from each group and the member representing law enforcement would have to be appointed for three years and the balance of the members would have to be appointed for two years. The Committee would have to meet at least once each year.

Upper Peninsula Exemption

The bill specifies that provisions on the development of a comprehensive plan for management of ORV use, the ORV Trails Advisory Committee, and the submission of revisions to the comprehensive plan to the Legislature would not apply to the Upper Peninsula.

ORV Use System

The Act required the Department to develop a comprehensive system for the use of ORVs on routes, trails, and areas, and to submit it to the Natural Resources Commission for approval. The Department then had to submit the Commission-approved system to the Secretary of the Senate and the Clerk of the House of Representatives. If the Legislature did not reject the system, all State-owned land under the Department's jurisdiction was to be closed to ORV use on the effective date determined by the Commission, except designated routes, trails, and areas. These provisions were repealed on January 1, 1995.

The bill specifies that under the comprehensive system previously approved and implemented, all State-owned land under the jurisdiction of the Department would have to be closed to ORV use except designated routes, trails, and areas. The Commission would have to approve any subsequent revisions to the system and would have to establish an effective date for the revisions. The Department would have to submit the revisions approved by the Commission to the Secretary of the Senate and the Clerk of the House of Representatives at least 20 session days before the effective date determined by the Commission. If both standing committees of the House and Senate that consider natural resources matters failed to reject the revisions within those 20 session days, they would be considered approved.

In developing the system, the Department would have to consider the needs of hunters, senior citizens, and handicappers.

ORV Safety and Training Program

The Act currently requires the Department of Education to implement a comprehensive ORV information, safety education, and training program for the public. The bill would impose an April 1, 1995, deadline on the implementation of the program, and specify that the program could include separate instruction for each type of ORV. Further, the bill would make it permissible rather than mandatory that the Department of Education promulgate rules to implement the Act's provisions concerning the establishment of the education and training program and the issuance of ORV safety certificates.

The Act currently permits a child under 16 to operate an ORV if he or she has an ORV safety certificate, and requires the child to present it to a peace officer upon demand. The Act provides, however, that its possession or presentation requirement is not to take effect until six months after the promulgation of the rules concerning the implementation of the program. The bill provides that

the requirement would not take effect until the implementation of the safety training program for the vehicle proposed to be operated. Further, the bill specifies that the requirement for possession or presentation of an ORV safety certificate for operation of a two-wheeled ORV would not take effect until March 1, 1996.

MCL 257.1601 et al.

Legislative Analyst: L. Burghardt

FISCAL IMPACT

The bill would restore the provisions repealed in January 1995 directing the use of the ORV Trail Improvement Fund, and would have no net fiscal impact on State government. For FY 1993-94, \$810,400 in ORV Trail Improvement Fund revenue was collected from 101,300 registrations at \$8. For 1994-95, approximately \$1,000,000 is projected, with \$705,800 appropriated for the Department of Natural Resources and distributed as follows: \$539,000 (54%) in Off-Road Vehicle Trail Improvement Grants, \$130,700 (13%) for DNR Law Enforcement, and \$36,100 (4%) for administration.

Fiscal Analyst: G. Cutler

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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.