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**ORVS: REVISE SAFETY
EDUCATION PROGRAMS**

House Bill 5912

Sponsor: Rep. Jason Allen

**Committee: Conservation and Outdoor
Recreation**

Complete to 10-26-00

A SUMMARY OF HOUSE BILL 5912 AS INTRODUCED 6-21-00

House Bill 5912 would amend Part 811 of the Natural Resources and Environmental Protection Act (NREPA, which regulates off-road recreational vehicles (ORVs), including all-terrain vehicles (commonly referred to as an ATVs), to require, among other provisions, that safety education instructors possess certain qualifications.

Safety Education Courses. The NREPA currently specifies that a person under 16 years of age may not operate an ORV unless the child is under the direct supervision of an adult and has completed an ORV safety education course approved by the Department of Education (DOE). The act also specifies that the department must implement a comprehensive ORV information, safety education, and training program no later than April 1, 1995. The bill would extend this date to October 1, 2000. Further, the program may include separate instruction for each type of ORV. House Bill 5912 would delete this provision, and also delete the provision allowing the DOE to promulgate rules. The bill would also delete the current requirement that the superintendent of public instruction designate one person to be the state coordinator of the ATV and ORV safety education program and another person to perform annual inspections of course sites.

Current law allows an agency or school conducting a safety education course to apply to the DOE for a grant for costs associated with conducting such a course. The bill would amend this provision to limit grant funds to courses providing at least seven hours of instruction. Further, the bill would require that a vehicle used for training in a course conducted by an agency, school, or private business enterprise would have to be provided by the student or the course sponsor, and that it not be larger than the recommended size specified in the course curriculum.

Safety Education Instructors. Under House Bill 5912, a safety education instructor would have to meet the following requirements:

- Possess a valid operator's license.
- Be at least 18 years of age.
- Be knowledgeable of the rules and regulations that pertain to ORV operations on public and private land.
- Have prior experience in the safe operation of an ORV.

- Have successfully complete an ORV safety education instructor preparation course approved by the DOE.

Further, the DOE could approve a local or state law enforcement officer as an ORV safety education instructor if the officer had at least three years prior experience in operating an ORV and enforcing the provisions of the act, or an ordinance or rules promulgated under the act.

Revocation of instructor's approval. Under the bill, the DOE could revoke an instructor's approval to teach an ORV safety education course after notice and hearing, as provided under the bill, for any of the following reasons:

- Conviction of criminal sexual conduct in any degree.
- Felonious assault on a child, child abuse, or cruelty, torture, or indecent exposure involving a child.
- Notification from the secretary of state that the instructor had accumulated seven or more points on his or her driving record within a two-year period for moving traffic violations.
- The individual did not meet the requirements specified under the bill.

Before revoking an instructor's approval, the DOE would have to serve upon the instructor a copy of the written charges and a notice of opportunity to show compliance, a copy of the written charges and a notice of opportunity to show compliance. Within 30 days after serving these, the bill would require that a hearing conference be conducted by a hearing officer designated by the state superintendent of public instruction, and conducted in compliance with provisions in the Administrative Procedures Act concerning procedures in contested cases (MCL 24.271 to 24.287). A decision could be made in the instructor's absence if he or she failed to attend the hearing. Both the instructor and the department could agree, in writing, to a settlement of the matter without a hearing. Otherwise, the department would be required to take one of the following actions after the hearing: make a finding of compliance; enter into a written settlement; or make a finding of noncompliance and revoke approval to teach ORV safety education courses. After a period of 24 or more months, the DOE could reinstate the approval if an application for reinstatement met the existing criteria for approval.

Noncompliance with any provision of the act could also be considered just cause to discontinue a safety education course that had previously been approved. The department would be required to follow the provisions for a hearing (see above) before discontinuing a program.

MCL 324.81129 and 324.81130

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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.