



**House
Legislative
Analysis
Section**

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ORV USE BY SENIORS, DISABLED

**House Bill 4180 (Substitute H-2)
First Analysis (5-21-02)**

**Sponsor: Rep. Dale Sheltrown
Committee: Conservation and Outdoor
Recreation**

THE APPARENT PROBLEM:

Since 1991, state policy has prohibited the use of off-road vehicles (ORVs) on state forest land (including on forest roads) in the Lower Peninsula unless the area is specifically posted as open for ORV use. (In the Upper Peninsula, the converse is true; ORV use is permitted on state lands except as specifically posted as closed.) In addition, ORVs may not be operated on state and U.S. highways, including the roadway and shoulder, nor may they be used on county and other roads unless opened by local ordinance as designated ORV routes.

It has been suggested that disabled persons and senior citizens may have difficulty getting their ORVs to designated trails and forest roads. Even though the trail head may be a short distance from their campsite or their home, they must trailer their ORVs and maneuver their vehicles in and out of the access sites. Legislation has been introduced to allow these individuals to operate their ORVs on non-designated trails, forest roads, or county roads for the purpose of accessing a designated trail.

THE CONTENT OF THE BILL:

Under the Natural Resources and Environmental Protection Act, ORV use is generally prohibited (in the Lower Peninsula) except on designated trails, forest roads, or other designated areas. House Bill 4180 would amend the act to allow a person aged 65 or older, or a person with a disability, to operate an ORV on a non-designated trail, forest road, or county road for the sole purpose of accessing a designated ORV trail, route, or area. A person with a disability would have to possess either a completed Department of Natural Resources affidavit signed by a licensed physician, a DNR-issued permit to hunt from a standing vehicle, or a special registration plate, certificate of identification, or windshield placard issued by the Department of State for a person with a disability.

MCL 324.81133

BACKGROUND INFORMATION:

Under current law, a person who has been issued a disability license plate or placard by the secretary of state or a DNR permit to hunt from a standing vehicle, or who possess a completed DNR affidavit (signed by a physician) certifying that the individual is disabled, may operate a licensed ORV on state forest roads whether posted open to ORVs or not (but the privilege does not extend to areas specifically posted as closed to ORV use). The affidavit or hunt from standing vehicle permits must be available for inspection by law enforcement officers.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would have no fiscal impact. (5-21-02)

ARGUMENTS:

For:

In the Lower Peninsula, ORVs may only be operated on trails and forest roads that are specifically posted as open to ORV use. They may not be operated on non-designated trails or open areas, alongside roads, or anywhere else. This means that people must park their trailers at trailheads to access the trails, and must drive their vehicles and trailers to these locations even if they are just a mile or so from their campsites or from their homes. Moreover, maneuvering vehicles with trailers into and out of trail head parking areas may be difficult if the trailheads are crowded. Some people believe that senior citizens and disabled persons should not be burdened with this task in order to enjoy the use of their ORVs. The bill would provide a limited exemption for these persons, allowing them to ride their ORVs alongside county roads and in areas not specifically designated for ORV use, for the sole purpose of accessing a designated trail.

Against:

According to the Department of Natural Resources, the "closed unless posted open" policy was

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implemented to protect environmentally sensitive areas, separate conflicting uses of the trails (e.g., bicyclers and hikers from ORV users), and control careless and insensitive riders. This bill could undermine the policy and create serious enforcement problems. It could create or add to trespassing problems, as ORV users exempted under the bill attempt to access designated trails by traversing private property. This could lead to less willingness on the part of property owners to allow the creation of new (non-ORV designated) trails that cross their property. It would also make non-designated trails unsafe for other users of the trails, and lead to more confusion from other riders who see the exempted persons using non-designated trails and thereby believe that they can, too.

Enforcing this bill would be extremely difficult. The bill contains no definition of “non-designated trail”, so it would apply virtually everywhere. An exempted rider could claim to be enroute to a designated trail, no matter where they were riding.

The secretary of state’s office has concerns about the use of SOS information to qualify as “disabled”. The secretary of state does not issue plates for ORVs; these plates and placards are issued for cars. There is no way to carry a license plate or placard on an ORV, and one would not be able to remove a license plate from a car for the purpose of carrying it on an ORV, anyway. In addition, a disability plate or placard may be issued to a person who transports a disabled person (rather than being disabled himself or herself), so merely possessing the plate or placard is not evidence of disability. And, if the intent of the bill is to require the secretary of state to issue a new kind of plate (for an ORV), that would be a very expensive proposition.

Further, the bill would allow ORV use on “county roads”, which, if this means on the roadway itself, would create serious safety issues. The secretary of state’s office notes that most ORVs (including all-terrain vehicles and motor bikes) are not safe for operation on roadways and are not licensed for such use.

Finally, it should also be noted that current law already makes reasonable allowances for disabled individuals to operate ORVs on forest roads not specifically posted as open for ORV use. As for senior citizens, age alone should not necessarily be a reason for a waiver, as that may have no bearing on a person’s ability to operate an ORV. In short, the bill is not necessary; current provisions already address

this problem without the attendant enforcement and administrative difficulties posed by this proposal.

POSITIONS:

The Cycle Conservation Club of Michigan, Inc. supports the bill. (2-22-01)

The Michigan Motorcycle Dealers Association indicated support for the bill. (5-16-02)

The Department of Natural Resources opposes the bill. (5-16-02)

The Michigan Environmental Council opposes any legislation that will allow the use of off-road vehicles on non-designated trails. (3-29-01)

The Department of State has concerns about the safe operation of ORVs on roads, and about the use of secretary of state information to verify disability eligibility under the bill. (5-16-02)

Analyst: D. Martens

■ 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.