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BILL ANALYSIS

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Senate Bill 296 (as enacted)

Sponsor: Senator Ron Jelinek

Senate Committee: Transportation

House Committee: Tourism, Outdoor Recreation, and Natural Resources

**PUBLIC ACT 164 of 2008**

Date Completed: 7-2-09

**RATIONALE**

In Michigan, as a rule, children under the age of 16 are required to possess an off-road vehicle (ORV) safety certificate to operate ORVs, or all-terrain vehicles, motorcycles, and other motorized vehicles designed for off-road use. In addition, a child under the age of 12 generally may not operate an ORV except on private land owned by the child's parent or legal guardian. Those requirements were enacted to help prevent injuries to children in ORV accidents, but some were concerned that the law was limiting the growth of ORV riding events in Michigan. In particular, some racetrack owners and riding enthusiasts suggested that the requirement to obtain an ORV safety certificate posed an undue burden for children participating in racing or riding events, some of whom come from out-of-State and do not have the opportunity to obtain a safety certificate before an event. Because these activities take place in relatively controlled environments with adult supervision, it was suggested that the restrictions should not apply to children participating in ORV riding and racing events.

**CONTENT**

**The bill amended Part 811 (Off-Road Recreational Vehicles) of the Natural Resources and Environmental Protection Act to permit a child to operate an off-road vehicle without having an ORV safety certificate, or meeting other requirements, at organized riding or racing events under certain conditions.**

The bill took effect on June 19, 2008.

Under Part 811, a child under 16 may not operate, and the parent or legal guardian of a child under 16 may not permit the child to operate, an ORV unless he or she is under the direct visual supervision of an adult and has in his or her possession an ORV safety certificate issued under the part or a comparable certificate issued by another state or a Canadian province.

A child under the age of 12 may not operate a four-wheeled all-terrain vehicle (ATV) unless he or she is at least 10 years old and is on private land owned by a parent or legal guardian of the child.

Under the bill, those restrictions do not apply if all of the following requirements are met:

- The child is participating in an organized ORV riding or racing event held on land not owned by the State.
- The child's parent or legal guardian has given the event organizer written permission for the child to participate in the event.
- The event organizer has at least \$500,000 liability insurance coverage for the event.
- A physician or physician's assistant licensed or otherwise authorized under the Public Health Code, or a paramedic or emergency medical technician licensed under the Code is present at the site or available on call.
- The event is at all times under the direct visual supervision of adult staff of the event organizer, and a staff member serves as a flagger to warn ORV riders if another ORV rider is injured or an ORV is inoperable in the ORV operating area.

- Fencing or another means of crowd control is used to keep spectators out of the ORV operating area.
- If the event is on a closed course, dust is controlled in the ORV operating area and the riding surface otherwise is prepared properly.
- Participants do not use three-wheeled ATVs.
- Any ATVs used by participants are equipped with a side step bar or comparable safety equipment and with a tether kill switch, and all participants use the tether.
- Each participant in the event wears a crash helmet approved by the U.S. Department of Transportation, a protective long-sleeved shirt or jacket, long pants, boots, and protective gloves.
- Any other applicable requirements of Part 811 or rules promulgated under it are met.

The bill permits the Director of the Department of Natural Resources (DNR) to promulgate rules to implement those provisions.

If a child less than 16 years of age participates and is injured in an organized ORV riding or racing event, the organizer of the event must, within 30 days after the event, submit to the DNR a report that includes the following information, as applicable:

- Whether any participant less than 16 years of age was killed or suffered an injury resulting in transportation to a hospital as a result of an ORV accident at the event.
- The age of the child.
- Whether the child had been issued an ORV safety certificate issued under Part 811 or a comparable ORV safety certificate issued under the authority of another state or a province of Canada.
- The type of ORV operated.
- A description of the accident and injury.

By December 31 of each year, the DNR must submit to the Legislature a report summarizing reports received under that provision during the preceding calendar year. In the report, the Department may recommend amendments to Part 811 to improve the safety of children less than 16

years of age participating in organized ORV riding or racing events.

MCL 324.81129

## **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**

Off-road vehicle racing is a popular pastime in Michigan, which has at least 26 motocross tracks where competitions and riding events are hosted. According to testimony before the Senate Transportation Committee, 6,682 riders, including 2,051 under the age of 16, registered to compete in at least one motocross race in Michigan between 2006 and 2008. Most of the participants come from surrounding states and Ontario, but some reportedly travel from as far as California or Florida. For these out-of-State competitors, it was inconvenient or sometimes impossible to obtain a safety certificate before the race. Some contestants were unaware that such a certificate was required. Maintaining that requirement could have inhibited the growth of the industry and discouraged out-of-State riders from coming to Michigan to compete, marginalizing the State's competitions.

Also, the safety certificate was not tailored specifically to racing events. Much of the safety instruction covered in the DNR's training course applies to trail riding, where there are significant hazards from uneven terrain, narrow or winding trails, and oncoming vehicles, among other things. In the controlled setting of a racing event, many of those dangers are mitigated or not present. There are adult supervisors and event coordinators monitoring the races to ensure that the riders conform to the event rules and operate the vehicles safely. All the vehicles are moving in the same direction, eliminating the risk of a head-on collision. Flaggers are present to intervene and warn other racers if there is an accident or a vehicle has stopped on the course. After a race, all courses are cleared of riders before the next race is begun.

In addition, particularly for young racers, the maximum speed possible on a course is fairly low, reducing the risk of injury if a

child is in an accident. Race courses also generally require protective gear that exceeds the minimum standards required by the DNR, including long-sleeved shirts, protective chest coverings, boots, and pads to help prevent injury. The bill requires a rider to use such safety equipment in order to be exempt from the certification requirements, and requires an ORV to have safety features such as a kill-switch tether, which automatically shuts off the motor if a rider is thrown from the vehicle. Safety is a primary concern at racing or riding events, and organizers do their best to maintain the safest possible environment. The bill allows these events to continue without unnecessary restrictions or requirements that could limit the growth of this popular activity in Michigan.

### **Opposing Argument**

Off-road vehicles can be dangerous if operated improperly by an untrained rider. The ORV safety certificate program was implemented to ensure that each child operating an ORV has certain basic training and skills and is aware of potential hazards. Waiving the requirements for one group might encourage others to ask for similar exceptions, weakening the effectiveness of the program. It would have been preferable to preserve the certification requirements while making it easier for children to comply. For example, the safety course could be offered on-line, allowing an out-of-State competitor to complete the course before traveling to Michigan. Officials from the DNR could be present at an event to conduct a routine test, evaluate the child's ability to handle the vehicle, and then present the certificate to him or her on the day of the race. Such an approach would protect young riders while enabling ORV racing to continue to flourish in the State.

Legislative Analyst: Curtis Walker

### **FISCAL IMPACT**

Additional reporting requirements will be absorbed by the Department through existing resources.

Fiscal Analyst: Bill Bowerman

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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.