



**House
Legislative
Analysis
Section**

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FINES FOR TRAILWAY VIOLATIONS

House Bill 4350 as enrolled
Sponsor: Rep. Beverly Bodem

House Bill 5177 as enrolled
Sponsor: Rep. Tracey Yokich

House Committee: Tourism & Recreation
**Senate Committee: Local Government &
Urban Development**

Third Analysis (4-5-94)

THE APPARENT PROBLEM:

In response to concerns about the proper development of recreational trailways, public support for new recreational opportunities, and growing local interest in urban "greenways", Public Acts 26, 27, and 28 of 1993 provide for the creation of a statewide trailways system. These laws authorize the Natural Resources Commission to designate trailways throughout Michigan, and permit the Department of Transportation to transfer abandoned railroad rights-of-way to the Department of Natural Resources for use as trailways. Even though many groups generally support the concept of a trailways system, several concerns were raised during the passage of this legislation. In particular, some people expressed fear that the trailways--which may run through private as well as public property--will lead to increased problems with vandalism, theft and trespassing, as well as damage to natural resources.

These concerns are heightened by the fact that the Natural Resources Commission, after receiving input from the affected local units and the public, may include motorized vehicles in the permitted uses of a trailway. Apparently, some local units interested in the trailways concept do not favor allowing motor vehicles to be used on any trailways within their jurisdiction. To provide them with the means of deterring illegal vehicle use, it has been suggested that local units be authorized to make this activity a municipal civil infraction punishable by a fine of up to \$500. (See BACKGROUND INFORMATION for a brief discussion of municipal civil infractions.)

THE CONTENT OF THE BILLS:

House Bill 4350 would amend Public Act 359 of 1947 (MCL 42.1 et al.), which the bill would name the Charter Township Act, and House Bill 5177 would amend Public Act 215 of 1895 (MCL 81.1a et al), which the bill would name the Fourth Class City Act, to provide that the operation of a vehicle on a recreational trailway at a time, in a place, or in a manner prohibited by an ordinance would be a municipal civil infraction, whether or not so designated by the ordinance. A civil fine ordered for this offense could not exceed the maximum amount of a fine provided by the ordinance or \$500, whichever was less.

An act or omission involving operation of a vehicle on a recreational trailway would not be a municipal civil infraction if that act or omission constituted a violation or crime that could not be designated as a civil infraction under the act (i.e., a violation of the Public Health Code that was a controlled substance or androgenic anabolic steroid offense; or a violation of the Michigan Penal Code; the Michigan Vehicle Code; the Michigan Liquor Control Act; the Marine Safety Act; the Aeronautics Code; Public Act 74 of 1968, which governs snowmobiles; Public Act 319 of 1975, which governs off-road vehicles; Public Act 4 of 1986, which criminalizes operating a locomotive engine while the operator is under the influence; or of any law of this state under which the act or omission is punishable by imprisonment for more than 90 days.)

The bills also provide that an ordinance regulating a recreational trailway would not be effective unless

House Bills 4350 and 5177 (4-5-94)

it were posted and maintained near each gate or principal entrance to the trailway.

The bills are tie-barred to each other and would take effect October 1, 1994. The bills also are tie-barred to Senate Bills 312 to 316, 414, and 415, which would amend various laws governing other local units of government to make generally the same changes as those proposed by House Bills 4350 and 5177.

BACKGROUND INFORMATION:

Public Act 12 of 1994 amended the Revised Judicature Act to provide for the enforcement and adjudication of municipal civil infractions by local units of government. "Municipal civil infraction" means a civil infraction involving a violation of an ordinance, although certain civil infractions are excluded, and municipal civil infractions cannot include acts or omissions that constitute a crime under specified laws (the same laws listed under The Content of the Bills). Municipal civil infractions also may include a "trailway municipal civil infraction", which means a municipal civil infraction involving the operation of a vehicle on a recreational trailway at a time, in a place, or in a manner prohibited by ordinance.

Public Act 12 also contains specific provisions governing trailway infractions, including provisions authorizing local officials to seize and impound a vehicle operated in the commission of a trailway municipal civil infraction. In addition, a defendant may be ordered to pay the amount of damages to any land, water, wildlife, vegetation or other natural resource or any facility harmed by the violation.

Public Acts 13 through 26 of 1994 amended the enabling acts of local units of government to authorize the local units to adopt ordinances designating a violation as a municipal civil infraction and providing a civil fine for the violation (with exceptions for the same criminal acts or omissions noted above).

Public Acts 12 through 26 will take effect on May 1, 1994.

FISCAL IMPLICATIONS:

The Senate Fiscal Agency reports that the bills would not affect state or local budget expenditures. (3-14-94)

ARGUMENTS:

For:

As envisioned by the Department of Natural Resources, the Michigan trailways system will be an interconnected group of trails running through both remote countryside and the center of cities and villages, from Michigan's southern border up to the Mackinac Bridge and through the Upper Peninsula to the state's northernmost border. While this system is expected to create an array of new recreational opportunities for Michigan's citizens and tourists, it also undoubtedly will provide new opportunities for property damage and other criminal activity. This is particularly the case if designated trails are to be used by motorized vehicles, such as cars, motorcycles, and off-road vehicles. Thus, it is necessary to give the local governmental units the means to discourage people from using vehicles on trails in a way that would violate a municipal ordinance. House Bills 4350 and 5177 are part of a package of legislation intended to do just that. In conjunction with Public Act 12, local units would be able to assess fines of up to \$500, as well as impound vehicles, for recreational trailway violations involving a vehicle.

Against:

The threatened harm to property and natural resources that people fear is from motorized vehicles, not bicycles, but the bills would permit local units to levy a fine of up to \$500 for the illegal operation of any "vehicle" on a recreational trailway. Thus, a person could be subject to a substantial fine for riding a bicycle on a trailway that passed through a jurisdiction with such an ordinance. Unlike driving a car or operating a motorcycle or off-road vehicle, riding a bicycle is a quiet activity with little or no impact on the environment. Furthermore, initial plans for the trailway system reportedly included bicycling as one of the activities that would be permitted on trails.