



**House  
Legislative  
Analysis  
Section**

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**TORT IMMUNITY FOR  
ROAD COMMISSIONS**

**AS ENROLLED**

**House Bill 4749 as introduced  
First Analysis (10-5-95)**

**Sponsor: Rep. James McNutt  
Committee: Conservation, Environment,  
and Great Lakes**

***THE APPARENT PROBLEM:***

In 1993, Public Acts 204 and 205 amended the snowmobile act (Public Act 74 of 1968) and the off-road vehicle (ORV) act (Public Act 319 of 1975), respectively, to exempt county boards of road commissions, county boards of commissioners, and counties from tort liability for injuries or damages sustained from operating or using snowmobiles or ORVs on highways, shoulders, and rights-of-way over which the boards or counties had jurisdiction. The immunity applies regardless of whether the roads (including shoulders and rights-of-way) were maintained or not, but does not extend to gross negligence (defined as "conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results"). At the time of these amendments, apparently some people suggested that other laws (in addition to or instead of the snowmobile and ORV laws) should have been amended to provide this tort immunity for county road commissioners.

***THE CONTENT OF THE BILL:***

The bill would amend the county road law (Chapter IV of Public Act 283 of 1909) to provide county road commissions with the same legal immunity from tort liability as specified in the former snowmobile act (former Public Act 74 of 1968) and the former ORV act (former Public Act 319 of 1975). (Note: Both the snowmobile act and the ORV act, which the bill refers to, were repealed and reincorporated into the Natural Resources and Environmental Protection Act by Public Act 58 of 1995. The applicable sections of the NREPA are MCL 324.8131, for ORVs, and 324.82124, for snowmobiles.)

MCL 224.21

***FISCAL IMPLICATIONS:***

Fiscal information is not available.

***ARGUMENTS:***

***For:***

The bill is "clean-up" legislation, amending the road commission enabling act to make its language consistent with Public Acts 204 and 205 of 1993, which amended the snowmobile and ORV acts to provide road commissions, county commissioners, and counties with tort immunity from people driving recreational vehicles illegally on county roads.

***Against:***

Reportedly, some people believed that the 1993 amendments to the snowmobile and ORV laws amended the wrong laws, and that providing tort immunity was properly done by instead amending such laws as the Governmental Immunity Act, the Revised Judicature Act, or the act dealing with highway exceptions. On the other hand, if the county road commission enabling act needs to be amended to conform with the 1993 acts, perhaps the enabling acts for county commissioners and for counties should similarly be amended.

***POSITIONS:***

The County Road Association of Michigan supports the bill. (10-4-95)

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