
HOUSE BILL 1653

State of Washington

57th Legislature

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By Representatives Cooper, Ericksen, Wood, Jarrett, Dunshee and Anderson

Read first time 01/31/2001. Referred to Committee on Transportation.

1 AN ACT Relating to motor vehicle fuel tax revenue allocations,
2 distributions, and uses for nonhighway roads and off-road vehicles;
3 amending RCW 46.09.020, 46.09.170, 46.09.240, and 46.09.280; and adding
4 a new section to chapter 46.09 RCW.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 46.09.020 and 1986 c 206 s 1 are each amended to read
7 as follows:

8 As used in this chapter the following words and phrases have the
9 designated meanings unless a different meaning is expressly provided or
10 the context otherwise clearly indicates:

11 "Person" means any individual, firm, partnership, association, or
12 corporation.

13 "Nonhighway vehicle" means any motorized vehicle when used for
14 recreation travel on trails and nonhighway roads or for recreation
15 cross-country travel on any one of the following or a combination
16 thereof: Land, water, snow, ice, marsh, swampland, and other natural
17 terrain. Such vehicles include but are not limited to, off-road
18 vehicles, two, three, or four-wheel vehicles, motorcycles, four-wheel
19 drive vehicles, dune buggies, amphibious vehicles, ground effects or

1 air cushion vehicles, and any other means of land transportation
2 deriving motive power from any source other than muscle or wind.

3 Nonhighway vehicle does not include:

4 (1) Any vehicle designed primarily for travel on, over, or in the
5 water;

6 (2) Snowmobiles or any military vehicles; or

7 (3) Any vehicle eligible for a motor vehicle fuel tax exemption or
8 rebate under chapter 82.36 RCW while an exemption or rebate is claimed.
9 This exemption includes but is not limited to farm, construction, and
10 logging vehicles.

11 "Off-road vehicle" or "ORV" means any nonhighway vehicle when used
12 for cross-country travel on trails or on any one of the following or a
13 combination thereof: Land, water, snow, ice, marsh, swampland and
14 other natural terrain.

15 "ORV use permit" means a permit issued for operation of an off-road
16 vehicle under this chapter.

17 "ORV trail" means a multiple-use corridor designated and maintained
18 for recreational travel by off-road vehicles that is not normally
19 suitable for travel by conventional two-wheel drive vehicles and is
20 posted or designated by the managing authority of the property that the
21 trail traverses as permitting ORV travel.

22 "ORV use area" means the entire area of a parcel of land, except
23 for ORV trails and camping and approved buffer areas, that is posted or
24 designated for ORV use in accordance with rules adopted by the managing
25 authority.

26 "ORV recreation facility" includes ORV trails and ORV use areas.

27 "Owner" means the person other than the lienholder, having an
28 interest in or title to a nonhighway vehicle, and entitled to the use
29 or possession thereof.

30 "Operator" means each person who operates, or is in physical
31 control of, any nonhighway vehicle.

32 "Dealer" means a person, partnership, association, or corporation
33 engaged in the business of selling off-road vehicles at wholesale or
34 retail in this state.

35 "Department" means the department of licensing.

36 "Hunt" means any effort to kill, injure, capture, or purposely
37 disturb a wild animal or wild bird.

38 "Nonhighway road" means any road owned or managed by a public
39 agency, or any private road for which the owner has granted a permanent

1 easement for public use of the road, other than a highway generally
2 capable of travel by a conventional two-wheel drive passenger
3 automobile during most of the year and in use by such vehicles and that
4 is not built or maintained with appropriations from the motor vehicle
5 fund.

6 "Nonmotorized trail" means a recreational trail corridor designated
7 and maintained for nonmotorized use, and posted or designated by the
8 managing authority of the property to exclude ORV travel.

9 "Nonhighway road use area" means the entire area of a parcel of
10 land, except for the nonhighway road and approved buffer areas, that is
11 posted or designated in accordance with rules adopted by the managing
12 authority to exclude ORV use.

13 "Nonhighway road recreation facility" includes nonhighway roads,
14 nonhighway road use areas, and nonmotorized trails.

15 "Highway," for the purpose of this chapter only, means the entire
16 width between the boundary lines of every way publicly maintained by
17 the state department of transportation or any county or city when any
18 part thereof is generally open to the use of the public for purposes of
19 vehicular travel as a matter of right.

20 "Organized competitive event" means any competition, advertised in
21 advance through written notice to organized clubs or published in local
22 newspapers, sponsored by recognized clubs, and conducted at a
23 predetermined time and place.

24 **Sec. 2.** RCW 46.09.170 and 1995 c 166 s 9 are each amended to read
25 as follows:

26 (1) From time to time, but at least once each year, the state
27 treasurer shall refund from the motor vehicle fund one percent of the
28 motor vehicle fuel tax revenues collected under chapter 82.36 RCW,
29 based on the tax rate in effect January 1, 1990, less proper deductions
30 for refunds and costs of collection as provided in RCW 46.68.090. The
31 treasurer shall place these funds in the general fund as follows:

32 (a) Forty percent shall be credited to the ORV and nonhighway
33 vehicle account and administered by the department of natural resources
34 solely for planning, maintenance, and management of ORV recreation
35 facilities, nonhighway roads, and nonhighway road recreation
36 facilities. The funds under this subsection shall be expended in
37 accordance with the following limitations:

1 (i) Not more than five percent may be expended for information
2 programs under this chapter;

3 (ii) Not less than ten percent and not more than fifty percent may
4 be expended for ORV recreation facilities;

5 (iii) Not more than twenty-five percent may be expended for
6 maintenance of nonhighway roads;

7 (iv) Not more than fifty percent may be expended for nonhighway
8 road recreation facilities;

9 (v) Ten percent shall be transferred to the interagency committee
10 for outdoor recreation for grants to law enforcement agencies in those
11 counties where the department of natural resources maintains ORV
12 facilities. This amount is in addition to those distributions made by
13 the interagency committee for outdoor recreation under (d)(i) of this
14 subsection;

15 (b) Three and one-half percent shall be credited to the ORV and
16 nonhighway vehicle account and administered by the department of fish
17 and wildlife solely for the acquisition, planning, development,
18 maintenance, and management of nonhighway roads and recreation
19 facilities;

20 (c) Two percent shall be credited to the ORV and nonhighway vehicle
21 account and administered by the parks and recreation commission solely
22 for the maintenance and management of ORV use areas and facilities; and

23 (d) Fifty-four and one-half percent, together with the funds
24 received by the interagency committee for outdoor recreation under RCW
25 46.09.110, shall be credited to the nonhighway and off-road vehicle
26 activities program account to be administered by the committee for
27 planning, acquisition, development, maintenance, and management of ORV
28 (~~recreation facilities~~) and nonhighway road recreation facilities;
29 ORV user education and information; and ORV law enforcement programs.
30 The funds under this subsection shall be expended in accordance with
31 the following limitations:

32 (i) (~~Not more than twenty percent may be expended for ORV
33 education, information, and law enforcement programs under this
34 chapter;~~

35 ~~(ii) Not less than an amount equal to the funds received by the
36 interagency committee for outdoor recreation under RCW 46.09.110 and
37 not more than sixty percent may be expended for ORV recreation
38 facilities;~~

1 ~~(iii) Not more than twenty percent may be expended for nonhighway~~
2 ~~road recreation facilities))~~ Not less than forty percent plus an amount
3 equal to the funds received by the interagency committee for outdoor
4 recreation under RCW 46.09.110, and not more than sixty percent must be
5 expended for ORV recreation facilities and programs under this chapter.

6 (ii) Not less than one-half of the minimum forty percent
7 established in (i) of this subsection (1)(d) must be expended for ORV
8 education and law enforcement programs under this chapter.

9 (iii) Not less than forty percent and not more than sixty percent
10 must be expended for uses relating to nonmotorized trail recreation
11 facilities and programs under this chapter.

12 (2) On a yearly basis an agency may not, except as provided in RCW
13 46.09.110, expend more than ten percent of the funds it receives under
14 this chapter for general administration expenses incurred in carrying
15 out this chapter.

16 NEW SECTION. Sec. 3. A new section is added to chapter 46.09 RCW
17 to read as follows:

18 (1) The interagency committee for outdoor recreation and the
19 department of licensing shall jointly contract with an independent
20 entity to study the sources and determine the distributions and uses of
21 funds provided to off-road vehicle and nonhighway road recreational
22 activities under RCW 46.09.170. The study must analyze and determine
23 the relative portion of the motor vehicle fuel tax revenues deposited
24 to the general fund under RCW 46.09.170 that are attributable to
25 vehicles operating off road or on nonhighway roads for recreational
26 activities, and the types of facilities used.

27 (2) The interagency committee for outdoor recreation and the
28 department of licensing shall jointly review the analysis and submit a
29 report to the appropriate standing committees of the legislature,
30 including recommendations regarding amendments to RCW 46.09.170 to
31 allocate revenues consistent with the relative proportion for the uses
32 generating the revenues. In making the recommendations, the committee
33 and department shall specifically consider joint use by nonmotorized
34 recreational users of trails funded as ORV recreational facilities.
35 The report must be submitted no later than January 1, 2002.

36 (3) Funds appropriated to the nonhighway and off-road vehicle
37 activities program under RCW 46.09.170(1)(d) must be used to implement
38 subsections (1) and (2) of this section. Funds spent on the

1 implementation of this section are in addition to agency general
2 administration expenditure limitations of RCW 46.09.170(2).

3 **Sec. 4.** RCW 46.09.240 and 1998 c 144 s 1 are each amended to read
4 as follows:

5 (1) After deducting administrative expenses and the expense of any
6 programs conducted under this chapter, the interagency committee for
7 outdoor recreation shall, at least once each year, distribute the funds
8 it receives under RCW 46.09.110 and 46.09.170 to state agencies,
9 counties, municipalities, federal agencies, nonprofit ORV
10 organizations, and Indian tribes(~~(-)~~) with the following limitations:

11 (a) Funds distributed under this section to nonprofit ORV
12 organizations may be spent only on projects or activities that benefit
13 ORV recreation on lands once publicly owned that come into private
14 ownership in a federally approved land exchange completed between
15 January 1, 1998, and January 1, 2005;

16 (b) The interagency committee for outdoor recreation shall not
17 distribute ORV funds to federal agencies under this chapter that are to
18 be spent for ORV capital or reconstruction projects that would
19 facilitate increased ORV activity in federally inventoried roadless
20 areas that are defined in approved national forest management plans;

21 (c) Funds distributed under 46.09.170(1)(d)(iii) may be awarded for
22 nonmotorized trail projects on tribal lands regardless of proximity to
23 a nonhighway road.

24 The committee shall adopt rules governing applications for funds
25 administered by the agency under this chapter and shall determine the
26 amount of money distributed to each applicant. Except for funds
27 granted under RCW 46.09.170(1)(d)(ii), the committee shall also
28 establish grant evaluation criteria that place the highest priority on
29 volunteer contributions. Agencies receiving funds under this chapter
30 for capital purposes shall consider the possibility of contracting with
31 the state parks and recreation commission, the department of natural
32 resources, or other federal, state, and local agencies to employ the
33 youth development and conservation corps or other youth crews in
34 completing the project.

35 (2) The interagency committee shall require each applicant for land
36 acquisition or development funds under this section to conduct, before
37 submitting the application, a public hearing in the nearest town of

1 five hundred population or more, and publish notice of such hearing on
2 the same day of each week for two consecutive weeks as follows:

3 (a) In the newspaper of general circulation published nearest the
4 proposed project;

5 (b) In the newspaper having the largest circulation in the county
6 or counties where the proposed project is located; and

7 (c) If the proposed project is located in a county with a
8 population of less than forty thousand, the notice shall also be
9 published in the newspaper having the largest circulation published in
10 the nearest county that has a population of forty thousand or more.

11 (3) The notice shall state that the purpose of the hearing is to
12 solicit comments regarding an application being prepared for submission
13 to the interagency committee for outdoor recreation for acquisition or
14 development funds under the off-road and nonhighway vehicle program.
15 The applicant shall file notice of the hearing with the department of
16 ecology at the main office in Olympia and shall comply with the State
17 Environmental Policy Act, chapter 43.21C RCW. A written record and a
18 magnetic tape recording of the hearing shall be included in the
19 application.

20 **Sec. 5.** RCW 46.09.280 and 1986 c 206 s 13 are each amended to read
21 as follows:

22 The interagency committee for outdoor recreation shall establish a
23 committee of nonhighway road recreationists, including representatives
24 of organized ORV and nonmotorized recreation groups, and governmental
25 entities maintaining areas or providing services eligible for funding
26 under RCW 46.09.170, to provide advice regarding the administration of
27 this chapter. The interagency committee for outdoor recreation shall
28 use available, credible, recreation participation data to establish an
29 advisory committee that is proportionate to the number of people
30 participating in the various recreation activities related to this
31 chapter. The recreation participation data must be reviewed every five
32 years, beginning January 1, 2005, to consider recomposition of the
33 advisory committee. Only representatives of organized ORV groups may
34 be voting members of the committee with respect to expenditure of funds
35 received under RCW 46.09.110.

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