

ESHB 2356 - S COMM AMD

By Committee on Parks, Fish & Wildlife

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that off-road
4 recreational vehicles (ORVs) provide opportunities for a wide variety
5 of outdoor recreation activities. The legislature further finds that
6 the limited amount of ORV recreation areas presents a challenge for ORV
7 recreational users, natural resource land managers, and private
8 landowners. The legislature further finds that many nonhighway roads
9 provide opportunities for ORV use. However, restrictions intended for
10 motor vehicles may prevent ORV use on certain roads, including forest
11 service roads. Therefore, the legislature finds that local, state, and
12 federal jurisdictions should be given the flexibility to allow ORV use
13 on nonhighway roads they own and manage or for which they are
14 authorized to allow public ORV use under an easement granted by the
15 owner.

16 **Sec. 2.** RCW 46.09.120 and 2003 c 377 s 1 are each amended to read
17 as follows:

18 (1) It is a traffic infraction for any person to operate any
19 nonhighway vehicle:

20 (a) In such a manner as to endanger the property of another;

21 (b) On lands not owned by the operator or owner of the nonhighway
22 vehicle without a lighted headlight and taillight between the hours of
23 dusk and dawn, or when otherwise required for the safety of others
24 regardless of ownership;

25 (c) On lands not owned by the operator or owner of the nonhighway
26 vehicle without an adequate braking device or when otherwise required
27 for the safety of others regardless of ownership;

28 (d) Without a spark arrester approved by the department of natural
29 resources;

1 (e) Without an adequate, and operating, muffling device which
2 effectively limits vehicle noise to no more than eighty-six decibels on
3 the "A" scale at fifty feet as measured by the Society of Automotive
4 Engineers (SAE) test procedure J 331a, except that a maximum noise
5 level of one hundred and five decibels on the "A" scale at a distance
6 of twenty inches from the exhaust outlet shall be an acceptable
7 substitute in lieu of the Society of Automotive Engineers test
8 procedure J 331a when measured:

9 (i) At a forty-five degree angle at a distance of twenty inches
10 from the exhaust outlet;

11 (ii) With the vehicle stationary and the engine running at a steady
12 speed equal to one-half of the manufacturer's maximum allowable ("red
13 line") engine speed or where the manufacturer's maximum allowable
14 engine speed is not known the test speed in revolutions per minute
15 calculated as sixty percent of the speed at which maximum horsepower is
16 developed; and

17 (iii) With the microphone placed ten inches from the side of the
18 vehicle, one-half way between the lowest part of the vehicle body and
19 the ground plane, and in the same lateral plane as the rearmost exhaust
20 outlet where the outlet of the exhaust pipe is under the vehicle;

21 (f) On lands not owned by the operator or owner of the nonhighway
22 vehicle on any highway, upon the shoulder or inside bank or slope of
23 any nonhighway road or highway, or upon the median of any divided
24 highway;

25 (g) On lands not owned by the operator or owner of the nonhighway
26 vehicle in any area or in such a manner so as to unreasonably expose
27 the underlying soil, or to create an erosion condition, or to injure,
28 damage, or destroy trees, growing crops, or other vegetation;

29 (h) On lands not owned by the operator or owner of the nonhighway
30 vehicle or on any nonhighway road or trail, when these are restricted
31 to pedestrian or animal travel; (~~and~~)

32 (i) On any public lands in violation of rules and regulations of
33 the agency administering such lands;

34 (j) On a nonhighway road without wearing upon his or her head a
35 motorcycle helmet fastened securely while in motion. For purposes of
36 this section, "motorcycle helmet" means a protective covering for the
37 head consisting of a hard outer shell, padding adjacent to and inside

1 the outer shell, and a neck or chin strap type retention system, with
2 a sticker indicating that the motorcycle helmet meets standards
3 established by the United States department of transportation.

4 (2) It is a misdemeanor for any person to operate any nonhighway
5 vehicle while under the influence of intoxicating liquor or a
6 controlled substance.

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

9 (1) It is lawful to operate an off-road vehicle upon a nonhighway
10 road and in parking areas serving designated off-road vehicle areas
11 when the responsible governing body, including state, federal, or local
12 authorities, authorizes the use of off-road vehicles.

13 (2) An off-road vehicle operated on a nonhighway road under this
14 section is exempt from licensing requirements of RCW 46.16.010 and
15 vehicle lighting and equipment requirements of chapter 46.37 RCW.

16 NEW SECTION. Sec. 4. A new section is added to chapter 46.09 RCW
17 to read as follows:

18 (1) Except as specified in subsection (2) of this section, no
19 person under sixteen years of age may operate an off-road vehicle on or
20 across a highway or nonhighway road in this state.

21 (2) Persons under sixteen years of age may operate an off-road
22 vehicle on a nonhighway road designated for off-road vehicle use under
23 the direct supervision of a person eighteen years of age or older
24 possessing a valid license to operate a motor vehicle under chapter
25 46.20 RCW.

26 **Sec. 5.** RCW 46.16.010 and 2003 c 353 s 8 and 2003 c 53 s 238 are
27 each reenacted and amended to read as follows:

28 (1) It is unlawful for a person to operate any vehicle over and
29 along a public highway of this state without first having obtained and
30 having in full force and effect a current and proper vehicle license
31 and display vehicle license number plates therefor as by this chapter
32 provided.

33 (2) Failure to make initial registration before operation on the

1 highways of this state is a misdemeanor, and any person convicted
2 thereof must be punished by a fine of no less than three hundred thirty
3 dollars, no part of which may be suspended or deferred.

4 (3) Failure to renew an expired registration before operation on
5 the highways of this state is a traffic infraction.

6 (4) The licensing of a vehicle in another state by a resident of
7 this state, as defined in RCW 46.16.028, evading the payment of any tax
8 or license fee imposed in connection with registration, is a gross
9 misdemeanor punishable as follows:

10 (a) For a first offense, up to one year in the county jail and a
11 fine equal to twice the amount of delinquent taxes and fees, no part of
12 which may be suspended or deferred;

13 (b) For a second or subsequent offense, up to one year in the
14 county jail and a fine equal to four times the amount of delinquent
15 taxes and fees, no part of which may be suspended or deferred;

16 (c) For fines levied under (b) of this subsection, an amount equal
17 to the avoided taxes and fees owed will be deposited in the vehicle
18 licensing fraud account created in the state treasury;

19 (d) The avoided taxes and fees shall be deposited and distributed
20 in the same manner as if the taxes and fees were properly paid in a
21 timely fashion.

22 (5) These provisions shall not apply to the following vehicles:

23 (a) Motorized foot scooters;

24 (b) Electric-assisted bicycles;

25 (c) Off-road vehicles operating on nonhighway roads under section
26 3 of this act;

27 (d) Farm vehicles if operated within a radius of fifteen miles of
28 the farm where principally used or garaged, farm tractors and farm
29 implements including trailers designed as cook or bunk houses used
30 exclusively for animal herding temporarily operating or drawn upon the
31 public highways, and trailers used exclusively to transport farm
32 implements from one farm to another during the daylight hours or at
33 night when such equipment has lights that comply with the law;

34 ~~((d))~~ (e) Spray or fertilizer applicator rigs designed and used
35 exclusively for spraying or fertilization in the conduct of
36 agricultural operations and not primarily for the purpose of
37 transportation, and nurse rigs or equipment auxiliary to the use of and

1 designed or modified for the fueling, repairing, or loading of spray
2 and fertilizer applicator rigs and not used, designed, or modified
3 primarily for the purpose of transportation;

4 ~~((e))~~ (f) Fork lifts operated during daylight hours on public
5 highways adjacent to and within five hundred feet of the warehouses
6 which they serve: PROVIDED FURTHER, That these provisions shall not
7 apply to vehicles used by the state parks and recreation commission
8 exclusively for park maintenance and operations upon public highways
9 within state parks;

10 ~~((f))~~ (g) "Special highway construction equipment" defined as
11 follows: Any vehicle which is designed and used primarily for grading
12 of highways, paving of highways, earth moving, and other construction
13 work on highways and which is not designed or used primarily for the
14 transportation of persons or property on a public highway and which is
15 only incidentally operated or moved over the highway. It includes, but
16 is not limited to, road construction and maintenance machinery so
17 designed and used such as portable air compressors, air drills, asphalt
18 spreaders, bituminous mixers, bucket loaders, track laying tractors,
19 ditchers, leveling graders, finishing machines, motor graders, paving
20 mixers, road rollers, scarifiers, earth moving scrapers and carryalls,
21 lighting plants, welders, pumps, power shovels and draglines, self-
22 propelled and tractor-drawn earth moving equipment and machinery,
23 including dump trucks and tractor-dump trailer combinations which
24 either (i) are in excess of the legal width, or (ii) which, because of
25 their length, height, or unladen weight, may not be moved on a public
26 highway without the permit specified in RCW 46.44.090 and which are not
27 operated laden except within the boundaries of the project limits as
28 defined by the contract, and other similar types of construction
29 equipment, or (iii) which are driven or moved upon a public highway
30 only for the purpose of crossing such highway from one property to
31 another, provided such movement does not exceed five hundred feet and
32 the vehicle is equipped with wheels or pads which will not damage the
33 roadway surface.

34 Exclusions:

35 "Special highway construction equipment" does not include any of
36 the following:

1 Dump trucks originally designed to comply with the legal size and
2 weight provisions of this code notwithstanding any subsequent
3 modification which would require a permit, as specified in RCW
4 46.44.090, to operate such vehicles on a public highway, including
5 trailers, truck-mounted transit mixers, cranes and shovels, or other
6 vehicles designed for the transportation of persons or property to
7 which machinery has been attached.

8 (6) The following vehicles, whether operated solo or in
9 combination, are exempt from license registration and displaying
10 license plates as required by this chapter:

11 (a) A converter gear used to convert a semitrailer into a trailer
12 or a two-axle truck or tractor into a three or more axle truck or
13 tractor or used in any other manner to increase the number of axles of
14 a vehicle. Converter gear includes an auxiliary axle, booster axle,
15 dolly, and jeep axle.

16 (b) A tow dolly that is used for towing a motor vehicle behind
17 another motor vehicle. The front or rear wheels of the towed vehicle
18 are secured to and rest on the tow dolly that is attached to the towing
19 vehicle by a tow bar.

20 **Sec. 6.** RCW 46.37.010 and 1997 c 241 s 14 are each amended to read
21 as follows:

22 (1) It is a traffic infraction for any person to drive or move or
23 for the owner to cause or knowingly permit to be driven or moved on any
24 highway any vehicle or combination of vehicles which is in such unsafe
25 condition as to endanger any person, or which does not contain those
26 parts or is not at all times equipped with such lamps and other
27 equipment in proper condition and adjustment as required in this
28 chapter or in regulations issued by the chief of the Washington state
29 patrol, or which is equipped in any manner in violation of this chapter
30 or the state patrol's regulations, or for any person to do any act
31 forbidden or fail to perform any act required under this chapter or the
32 state patrol's regulations.

33 (2) Nothing contained in this chapter or the state patrol's
34 regulations shall be construed to prohibit the use of additional parts
35 and accessories on any vehicle not inconsistent with the provisions of
36 this chapter or the state patrol's regulations.

1 (3) The provisions of the chapter and the state patrol's
2 regulations with respect to equipment on vehicles shall not apply to
3 implements of husbandry, road machinery, road rollers, or farm tractors
4 except as herein made applicable.

5 (4) No owner or operator of a farm tractor, self-propelled unit of
6 farm equipment, or implement of husbandry shall be guilty of a crime or
7 subject to penalty for violation of RCW 46.37.160 as now or hereafter
8 amended unless such violation occurs on a public highway.

9 (5) It is a traffic infraction for any person to sell or offer for
10 sale vehicle equipment which is required to be approved by the state
11 patrol as prescribed in RCW 46.37.005 unless it has been approved by
12 the state patrol.

13 (6) The provisions of this chapter with respect to equipment
14 required on vehicles shall not apply to motorcycles or motor-driven
15 cycles except as herein made applicable.

16 (7) This chapter does not apply to off-road vehicles used on
17 nonhighway roads.

18 (8) This chapter does not apply to vehicles used by the state parks
19 and recreation commission exclusively for park maintenance and
20 operations upon public highways within state parks.

21 ((+8)) (9) Notices of traffic infraction issued to commercial
22 drivers under the provisions of this chapter with respect to equipment
23 required on commercial motor vehicles shall not be considered for
24 driver improvement purposes under chapter 46.20 RCW.

25 ((+9)) (10) Whenever a traffic infraction is chargeable to the
26 owner or lessee of a vehicle under subsection (1) of this section, the
27 driver shall not be arrested or issued a notice of traffic infraction
28 unless the vehicle is registered in a jurisdiction other than
29 Washington state, or unless the infraction is for an offense that is
30 clearly within the responsibility of the driver.

31 ((+10)) (11) Whenever the owner or lessee is issued a notice of
32 traffic infraction under this section the court may, on the request of
33 the owner or lessee, take appropriate steps to make the driver of the
34 vehicle, or any other person who directs the loading, maintenance, or
35 operation of the vehicle, a codefendant. If the codefendant is held
36 solely responsible and is found to have committed the traffic

1 infraction, the court may dismiss the notice against the owner or
2 lessee.

3 NEW SECTION. **Sec. 7.** This act takes effect July 1, 2004."

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4 On page 1, beginning on line 1 of the title, after "roadways;"
5 strike the remainder of the title and insert "amending RCW 46.09.120
6 and 46.37.010; reenacting and amending RCW 46.16.010; adding new
7 sections to chapter 46.09 RCW; creating a new section; and providing an
8 effective date."

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