

SHB 2489 - S COMM AMD

By Committee on Parks, Fish & Wildlife

ADOPTED 03/05/2004

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

3 "Sec. 1. RCW 46.09.020 and 1986 c 206 s 1 are each amended to read
4 as follows:

5 ~~((As used in this chapter the following words and phrases have the~~
6 ~~designated meanings unless a different meaning is expressly provided or~~
7 ~~the context otherwise clearly indicates:~~

8 ~~"Person" means any individual, firm, partnership, association, or~~
9 ~~corporation.~~

10 ~~"Nonhighway vehicle" means any motorized vehicle when used for~~
11 ~~recreation travel on trails and nonhighway roads or for recreation~~
12 ~~cross-country travel on any one of the following or a combination~~
13 ~~thereof: Land, water, snow, ice, marsh, swampland, and other natural~~
14 ~~terrain. Such vehicles include but are not limited to, off road~~
15 ~~vehicles, two, three, or four wheel vehicles, motorcycles, four wheel~~
16 ~~drive vehicles, dune buggies, amphibious vehicles, ground effects or~~
17 ~~air cushion vehicles, and any other means of land transportation~~
18 ~~deriving motive power from any source other than muscle or wind.~~

19 ~~Nonhighway vehicle does not include:~~

20 ~~(1) Any vehicle designed primarily for travel on, over, or in the~~
21 ~~water;~~

22 ~~(2) Snowmobiles or any military vehicles; or~~

23 ~~(3) Any vehicle eligible for a motor vehicle fuel tax exemption or~~
24 ~~rebate under chapter 82.36 RCW while an exemption or rebate is claimed.~~
25 ~~This exemption includes but is not limited to farm, construction, and~~
26 ~~logging vehicles.~~

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

1 ~~"ORV use permit" means a permit issued for operation of an off-road~~
2 ~~vehicle under this chapter.~~

3 ~~"ORV trail" means a multiple use corridor designated and maintained~~
4 ~~for recreational travel by off road vehicles that is not normally~~
5 ~~suitable for travel by conventional two-wheel drive vehicles and is~~
6 ~~posted or designated by the managing authority of the property that the~~
7 ~~trail traverses as permitting ORV travel.~~

8 ~~"ORV use area" means the entire area of a parcel of land except for~~
9 ~~camping and approved buffer areas that is posted or designated for ORV~~
10 ~~use in accordance with rules adopted by the managing authority.~~

11 ~~"ORV recreation facility" includes ORV trails and ORV use areas.~~

12 ~~"Owner" means the person other than the lienholder, having an~~
13 ~~interest in or title to a nonhighway vehicle, and entitled to the use~~
14 ~~or possession thereof.~~

15 ~~"Operator" means each person who operates, or is in physical~~
16 ~~control of, any nonhighway vehicle.))~~

17 The definitions in this section apply throughout this chapter
18 unless the context clearly requires otherwise.

19 (1) "Advisory committee" means the nonhighway and off-road vehicle
20 activities advisory committee established in RCW 46.09.280.

21 (2) "Committee" means the interagency committee for outdoor
22 recreation established in RCW 79A.25.110.

23 (3) "Dealer" means a person, partnership, association, or
24 corporation engaged in the business of selling off-road vehicles at
25 wholesale or retail in this state.

26 (4) "Department" means the department of licensing.

27 ~~(("Hunt" means any effort to kill, injure, capture, or purposely~~
28 ~~disturb a wild animal or wild bird.~~

29 ~~"Nonhighway road" means any road owned or managed by a public~~
30 ~~agency, or any private road for which the owner has granted a permanent~~
31 ~~easement for public use of the road, other than a highway generally~~
32 ~~capable of travel by a conventional two-wheel drive passenger~~
33 ~~automobile during most of the year and in use by such vehicles and that~~
34 ~~is not built or maintained with appropriations from the motor vehicle~~
35 ~~fund.~~

36 ~~"Highway," for the purpose of this chapter only, means the entire~~
37 ~~width between the boundary lines of every way publicly maintained by~~

1 ~~the state department of transportation or any county or city when any~~
2 ~~part thereof is generally open to the use of the public for purposes of~~
3 ~~vehicular travel as a matter of right.~~

4 ~~"Organized competitive event" means any competition, advertised in~~
5 ~~advance through written notice to organized clubs or published in local~~
6 ~~newspapers, sponsored by recognized clubs, and conducted at a~~
7 ~~predetermined time and place.))~~

8 (5) "Highway," for the purpose of this chapter only, means the
9 entire width between the boundary lines of every roadway publicly
10 maintained by the state department of transportation or any county or
11 city with funding from the motor vehicle fund. A highway is generally
12 capable of travel by a conventional two-wheel drive passenger
13 automobile during most of the year and in use by such vehicles.

14 (6) "Motorized vehicle" means a vehicle that derives motive power
15 from an internal combustion engine.

16 (7) "Nonhighway road" means any road owned or managed by a public
17 agency or any private road for which the owner has granted an easement
18 for public use for which appropriations from the motor vehicle fund
19 were not used for (a) original construction or reconstruction in the
20 last twenty-five years; or (b) maintenance in the last four years.

21 (8) "Nonhighway road recreation facilities" means recreational
22 facilities that are adjacent to, or accessed by, a nonhighway road and
23 intended primarily for nonhighway road recreational users.

24 (9) "Nonhighway road recreational user" means a person whose
25 purpose for consuming fuel on a nonhighway road or off-road is
26 primarily for nonhighway road recreational purposes, including, but not
27 limited to, hunting, fishing, camping, sightseeing, wildlife viewing,
28 picnicking, driving for pleasure, kayaking/canoeing, and gathering
29 berries, firewood, mushrooms, and other natural products.

30 (10) "Nonhighway vehicle" means any motorized vehicle including an
31 ORV when used for recreational purposes on nonhighway roads, trails, or
32 a variety of other natural terrain.

33 Nonhighway vehicle does not include:

34 (a) Any vehicle designed primarily for travel on, over, or in the
35 water;

36 (b) Snowmobiles or any military vehicles; or

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

5 (11) "Nonmotorized recreational facilities" means recreational
6 trails and facilities that are adjacent to, or accessed by, a
7 nonhighway road and intended primarily for nonmotorized recreational
8 users.

9 (12) "Nonmotorized recreational user" means a person whose purpose
10 for consuming fuel on a nonhighway road or off-road is primarily for
11 nonmotorized recreational purposes including, but not limited to,
12 walking, hiking, backpacking, climbing, cross-country skiing,
13 snowshoeing, mountain biking, horseback riding, and pack animal
14 activities.

15 (13) "Off-road vehicle" or "ORV" means any nonstreet licensed
16 vehicle when used for recreational purposes on nonhighway roads,
17 trails, or a variety of other natural terrain. Such vehicles include,
18 but are not limited to, all-terrain vehicles, motorcycles, four-wheel
19 drive vehicles, and dune buggies.

20 (14) "Operator" means each person who operates, or is in physical
21 control of, any nonhighway vehicle.

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

26 (16) "ORV recreation facilities" include, but are not limited to,
27 ORV trails, trailheads, campgrounds, ORV sports parks, and ORV use
28 areas, designated for ORV use by the managing authority that are
29 intended primarily for ORV recreational users.

30 (17) "ORV recreational user" means a person whose purpose for
31 consuming fuel on nonhighway roads or off-road is primarily for ORV
32 recreational purposes, including but not limited to riding an all-
33 terrain vehicle, motorcycling, or driving a four-wheel drive vehicle or
34 dune buggy.

35 (18) "ORV sport park" means a facility designed to accommodate
36 competitive ORV recreational uses including, but not limited to,

1 motocross racing, four-wheel drive competitions, and flat track racing.

2 Use of ORV sports parks can be competitive or noncompetitive in nature.

3 (19) "ORV trail" means a multiple-use corridor designated by the
4 managing authority and maintained for recreational use by motorized
5 vehicles.

6 (20) "ORV use permit" means a permit issued for operation of an
7 off-road vehicle under this chapter.

8 (21) "Owner" means the person other than the lienholder, having an
9 interest in or title to a nonhighway vehicle, and entitled to the use
10 or possession thereof.

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

13 **Sec. 2.** RCW 46.09.110 and 1986 c 206 s 6 are each amended to read
14 as follows:

15 The moneys collected by the department under this chapter shall be
16 distributed from time to time but at least once a year in the following
17 manner:

18 The department shall retain enough money to cover expenses incurred
19 in the administration of this chapter: PROVIDED, That such retention
20 shall never exceed eighteen percent of fees collected.

21 The remaining moneys shall be distributed for ORV recreation
22 facilities by the interagency committee for outdoor recreation in
23 accordance with RCW 46.09.170(~~((1)(d))~~) (2)(d)(ii)(A).

24 **Sec. 3.** RCW 46.09.130 and 1994 c 264 s 35 are each amended to read
25 as follows:

26 No person may operate a nonhighway vehicle in such a way as to
27 endanger human life. No person shall operate a nonhighway vehicle in
28 such a way as to run down or harass any wildlife or animal, nor carry,
29 transport, or convey any loaded weapon in or upon, nor hunt from, any
30 nonhighway vehicle except by permit issued by the director of fish and
31 wildlife under RCW 77.32.237: PROVIDED, That it shall not be unlawful
32 to carry, transport, or convey a loaded pistol in or upon a nonhighway
33 vehicle if the person complies with the terms and conditions of chapter
34 9.41 RCW.

1 For the purposes of this section, "hunt" means any effort to kill,
2 injure, capture, or purposely disturb a wild animal or bird.

3 Violation of this section is a gross misdemeanor.

4 **Sec. 4.** RCW 46.09.130 and 2003 c 53 s 233 are each amended to read
5 as follows:

6 (1) No person may operate a nonhighway vehicle in such a way as to
7 endanger human life.

8 (2) No person shall operate a nonhighway vehicle in such a way as
9 to run down or harass any wildlife or animal, nor carry, transport, or
10 convey any loaded weapon in or upon, nor hunt from, any nonhighway
11 vehicle except by permit issued by the director of fish and wildlife
12 under RCW 77.32.237: PROVIDED, That it shall not be unlawful to carry,
13 transport, or convey a loaded pistol in or upon a nonhighway vehicle if
14 the person complies with the terms and conditions of chapter 9.41 RCW.

15 (3) For the purposes of this section, "hunt" means any effort to
16 kill, injure, capture, or purposely disturb a wild animal or bird.

17 (4) Violation of this section is a gross misdemeanor.

18 **Sec. 5.** RCW 46.09.170 and 2003 1st sp.s. c 26 s 920, 2003 1st
19 sp.s. c 25 s 922, and 2003 c 361 s 407 are each reenacted and amended
20 to read as follows:

21 (1) From time to time, but at least once each year, the state
22 treasurer shall refund from the motor vehicle fund one percent of the
23 motor vehicle fuel tax revenues collected under chapter 82.36 RCW,
24 based on a tax rate of: (a) Nineteen cents per gallon of motor vehicle
25 fuel from July 1, 2003, through June 30, 2005; (b) twenty cents per
26 gallon of motor vehicle fuel from July 1, 2005, through June 30, 2007;
27 (c) twenty-one cents per gallon of motor vehicle fuel from July 1,
28 2007, through June 30, 2009; (d) twenty-two cents per gallon of motor
29 vehicle fuel from July 1, 2009, through June 30, 2011; and (e) twenty-
30 three cents per gallon of motor vehicle fuel beginning July 1, 2011,
31 and thereafter, less proper deductions for refunds and costs of
32 collection as provided in RCW 46.68.090.

33 (2) The treasurer shall place these funds in the general fund as
34 follows:

1 ~~((i) Forty))~~ (a) Thirty-six percent shall be credited to the ORV
2 and nonhighway vehicle account and administered by the department of
3 natural resources solely for acquisition, planning, development,
4 maintenance, and management of ORV, nonmotorized, and nonhighway road
5 recreation facilities, and information programs and maintenance of
6 nonhighway roads~~(, and nonhighway road recreation facilities. The~~
7 ~~funds under this subsection shall be expended in accordance with the~~
8 ~~following limitations:~~

9 ~~(A) Not more than five percent may be expended for information~~
10 ~~programs under this chapter;~~

11 ~~(B) Not less than ten percent and not more than fifty percent may~~
12 ~~be expended for ORV recreation facilities;~~

13 ~~(C) Not more than twenty five percent may be expended for~~
14 ~~maintenance of nonhighway roads;~~

15 ~~(D) Not more than fifty percent may be expended for nonhighway road~~
16 ~~recreation facilities;~~

17 ~~(E) Ten percent shall be transferred to the interagency committee~~
18 ~~for outdoor recreation for grants to law enforcement agencies in those~~
19 ~~counties where the department of natural resources maintains ORV~~
20 ~~facilities. This amount is in addition to those distributions made by~~
21 ~~the interagency committee for outdoor recreation under (e)(iv)(A) of~~
22 ~~this subsection));~~

23 ~~((ii))~~ (b) Three and one-half percent shall be credited to the
24 ORV and nonhighway vehicle account and administered by the department
25 of fish and wildlife solely for the acquisition, planning, development,
26 maintenance, and management of ORV, nonmotorized, and nonhighway
27 ~~(roads and))~~ road recreation facilities and the maintenance of
28 nonhighway roads;

29 ~~((iii))~~ (c) Two percent shall be credited to the ORV and
30 nonhighway vehicle account and administered by the parks and recreation
31 commission solely for the acquisition, planning, development,
32 maintenance, and management of ORV ~~((use areas and)), nonmotorized, and~~
33 nonhighway road recreation facilities; and

34 ~~((iv) Fifty four))~~ (d) Fifty-eight and one-half percent~~(,~~
35 ~~together with the funds received by the interagency committee for~~
36 ~~outdoor recreation under RCW 46.09.110,))~~ shall be credited to the
37 nonhighway and off-road vehicle activities program account to be

1 administered by the committee for planning, acquisition, development,
2 maintenance, and management of ORV, nonmotorized, and nonhighway road
3 recreation facilities (~~and nonhighway road recreation facilities; ORV~~
4 ~~user~~), and for education (~~and~~), information(~~+~~), and (~~ORV~~) law
5 enforcement programs. During the fiscal year ending June 30, 2004, a
6 portion of these funds may be appropriated to the department of natural
7 resources to maintain and operate existing ORV and other recreation
8 facilities, including ORV campgrounds, for the state parks and
9 recreation commission to construct and upgrade trails and trail-related
10 facilities for both motorized and nonmotorized uses, and for other
11 activities identified in this section. The funds under this subsection
12 shall be expended in accordance with the following limitations, except
13 that during the fiscal year ending June 30, 2004, funds appropriated to
14 the committee from motor vehicle fuel tax revenues for the activities
15 in (~~(e)(iv)(B) and (C)~~) (d)(ii) of this subsection shall be reduced
16 by the amounts appropriated to the department of natural resources and
17 the state parks and recreation commission as provided in this
18 subsection:

19 ~~((A))~~ (i) Not more than ~~(twenty)~~ thirty percent may be expended
20 for (~~ORV~~) education, information, and law enforcement programs under
21 this chapter;

22 ~~((B) Not less than an amount equal to the funds received by the~~
23 ~~interagency committee for outdoor recreation under RCW 46.09.110 and~~
24 ~~not more than sixty percent may be expended for ORV recreation~~
25 ~~facilities;~~

26 ~~(C) Not more than twenty percent may be expended for nonhighway~~
27 ~~road recreation facilities))~~ (ii) Not less than seventy percent may be
28 expended for ORV, nonmotorized, and nonhighway road recreation
29 facilities. Except as provided in (d)(iii) of this subsection, of this
30 amount:

31 (A) Not less than thirty percent, together with the funds the
32 committee receives under RCW 46.09.110, may be expended for ORV
33 recreation facilities;

34 (B) Not less than thirty percent may be expended for nonmotorized
35 recreation facilities. Funds expended under this subsection
36 (2)(d)(ii)(B) shall be known as Ira Spring outdoor recreation
37 facilities funds; and

1 (C) Not less than thirty percent may be expended for nonhighway
2 road recreation facilities;

3 (iii) The committee may waive the minimum percentage cited in
4 (d)(ii) of this subsection due to insufficient requests for funds or
5 projects that score low in the committee's project evaluation. Funds
6 remaining after such a waiver must be allocated in accordance with
7 committee policy.

8 ~~((+2))~~ (3) On a yearly basis an agency may not, except as provided
9 in RCW 46.09.110, expend more than ten percent of the funds it receives
10 under this chapter for general administration expenses incurred in
11 carrying out this chapter.

12 ~~((+3))~~ (4) During the 2003-05 fiscal biennium, the legislature may
13 appropriate such amounts as reflect the excess fund balance in the
14 ~~((ORV))~~ NOVA account to the interagency committee for outdoor
15 recreation, the department of natural resources, the department of fish
16 and wildlife, and the state parks and recreation commission. This
17 appropriation is not required to follow the specific distribution
18 specified in subsection ~~((+1))~~ (2) of this section.

19 **Sec. 6.** RCW 46.09.170 and 2003 1st sp.s. c 25 s 922 and 2003 c 361
20 s 407 are each reenacted and amended to read as follows:

21 (1) From time to time, but at least once each year, the state
22 treasurer shall refund from the motor vehicle fund one percent of the
23 motor vehicle fuel tax revenues collected under chapter 82.36 RCW,
24 based on a tax rate of: (a) Nineteen cents per gallon of motor vehicle
25 fuel from July 1, 2003, through June 30, 2005; (b) twenty cents per
26 gallon of motor vehicle fuel from July 1, 2005, through June 30, 2007;
27 (c) twenty-one cents per gallon of motor vehicle fuel from July 1,
28 2007, through June 30, 2009; (d) twenty-two cents per gallon of motor
29 vehicle fuel from July 1, 2009, through June 30, 2011; and (e) twenty-
30 three cents per gallon of motor vehicle fuel beginning July 1, 2011,
31 and thereafter, less proper deductions for refunds and costs of
32 collection as provided in RCW 46.68.090.

33 (2) The treasurer shall place these funds in the general fund as
34 follows:

35 ~~((+i) Forty))~~ (a) Thirty-six percent shall be credited to the ORV
36 and nonhighway vehicle account and administered by the department of

1 natural resources solely for acquisition, planning, development,
2 maintenance, and management of ORV, nonmotorized, and nonhighway road
3 recreation facilities, and information programs and maintenance of
4 nonhighway roads ~~((, and nonhighway road recreation facilities. The~~
5 ~~funds under this subsection shall be expended in accordance with the~~
6 ~~following limitations:~~

7 ~~(A) Not more than five percent may be expended for information~~
8 ~~programs under this chapter;~~

9 ~~(B) Not less than ten percent and not more than fifty percent may~~
10 ~~be expended for ORV recreation facilities;~~

11 ~~(C) Not more than twenty five percent may be expended for~~
12 ~~maintenance of nonhighway roads;~~

13 ~~(D) Not more than fifty percent may be expended for nonhighway road~~
14 ~~recreation facilities;~~

15 ~~(E) Ten percent shall be transferred to the interagency committee~~
16 ~~for outdoor recreation for grants to law enforcement agencies in those~~
17 ~~counties where the department of natural resources maintains ORV~~
18 ~~facilities. This amount is in addition to those distributions made by~~
19 ~~the interagency committee for outdoor recreation under (c)(iv)(A) of~~
20 ~~this subsection));~~

21 ~~((+ii))~~ (b) Three and one-half percent shall be credited to the
22 ORV and nonhighway vehicle account and administered by the department
23 of fish and wildlife solely for the acquisition, planning, development,
24 maintenance, and management of ORV, nonmotorized, and nonhighway
25 ((roads and)) road recreation facilities and the maintenance of
26 nonhighway roads;

27 ~~((+iii))~~ (c) Two percent shall be credited to the ORV and
28 nonhighway vehicle account and administered by the parks and recreation
29 commission solely for the acquisition, planning, development,
30 maintenance, and management of ORV ((use areas and)), nonmotorized, and
31 nonhighway road recreation facilities; and

32 ~~((+iv) Fifty four))~~ (d) Fifty-eight and one-half percent((,
33 together with the funds received by the interagency committee for
34 outdoor recreation under RCW 46.09.110,)) shall be credited to the
35 nonhighway and off-road vehicle activities program account to be
36 administered by the committee for planning, acquisition, development,
37 maintenance, and management of ORV, nonmotorized, and nonhighway road

1 recreation facilities (~~and nonhighway road recreation facilities; ORV~~
2 ~~user~~) and for education (~~and~~), information(~~+~~), and (~~ORV~~) law
3 enforcement programs. The funds under this subsection shall be
4 expended in accordance with the following limitations:

5 ~~((A))~~ (i) Not more than ~~(twenty)~~ thirty percent may be expended
6 for (~~ORV~~) education, information, and law enforcement programs under
7 this chapter;

8 ~~((B) Not less than an amount equal to the funds received by the~~
9 ~~interagency committee for outdoor recreation under RCW 46.09.110 and~~
10 ~~not more than sixty percent may be expended for ORV recreation~~
11 ~~facilities;~~

12 ~~(C) Not more than twenty percent may be expended for nonhighway~~
13 ~~road recreation facilities))~~ (ii) Not less than seventy percent may be
14 expended for ORV, nonmotorized, and nonhighway road recreation
15 facilities. Except as provided in (d)(iii) of this subsection, of this
16 amount:

17 (A) Not less than thirty percent, together with the funds the
18 committee receives under RCW 46.09.110, may be expended for ORV
19 recreation facilities;

20 (B) Not less than thirty percent may be expended for nonmotorized
21 recreation facilities. Funds expended under this subsection
22 (2)(d)(ii)(B) shall be known as Ira Spring outdoor recreation
23 facilities funds; and

24 (C) Not less than thirty percent may be expended for nonhighway
25 road recreation facilities;

26 (iii) The committee may waive the minimum percentage cited in
27 (d)(ii) of this subsection due to insufficient requests for funds or
28 projects that score low in the committee's project evaluation. Funds
29 remaining after such a waiver must be allocated in accordance with
30 committee policy.

31 ~~((2))~~ (3) On a yearly basis an agency may not, except as provided
32 in RCW 46.09.110, expend more than ten percent of the funds it receives
33 under this chapter for general administration expenses incurred in
34 carrying out this chapter.

35 ~~((3))~~ (4) During the 2003-05 fiscal biennium, the legislature may
36 appropriate such amounts as reflect the excess fund balance in the
37 (~~ORV~~) NOVA account to the interagency committee for outdoor

1 recreation, the department of natural resources, the department of fish
2 and wildlife, and the state parks and recreation commission. This
3 appropriation is not required to follow the specific distribution
4 specified in subsection ~~((1))~~ (2) of this section.

5 **Sec. 7.** RCW 46.09.240 and 1998 c 144 s 1 are each amended to read
6 as follows:

7 (1) After deducting administrative expenses and the expense of any
8 programs conducted under this chapter, the interagency committee for
9 outdoor recreation shall, at least once each year, distribute the funds
10 it receives under RCW 46.09.110 and 46.09.170 to state agencies,
11 counties, municipalities, federal agencies, nonprofit ORV
12 organizations, and Indian tribes. Funds distributed under this section
13 to nonprofit ORV organizations may be spent only on projects or
14 activities that benefit ORV recreation on lands once publicly owned
15 that come into private ownership in a federally approved land exchange
16 completed between January 1, 1998, and January 1, 2005.

17 (2) The committee shall adopt rules governing applications for
18 funds administered by the agency under this chapter and shall determine
19 the amount of money distributed to each applicant. Agencies receiving
20 funds under this chapter for capital purposes shall consider the
21 possibility of contracting with the state parks and recreation
22 commission, the department of natural resources, or other federal,
23 state, and local agencies to employ the youth development and
24 conservation corps or other youth crews in completing the project.

25 ~~((2) The interagency committee shall require each applicant for
26 land acquisition or development funds under this section to conduct,
27 before submitting the application, a public hearing in the nearest town
28 of five hundred population or more, and publish notice of such hearing
29 on the same day of each week for two consecutive weeks as follows:~~

30 ~~(a) In the newspaper of general circulation published nearest the
31 proposed project;~~

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

34 ~~(c) If the proposed project is located in a county with a
35 population of less than forty thousand, the notice shall also be~~

1 ~~published in the newspaper having the largest circulation published in~~
2 ~~the nearest county that has a population of forty thousand or more.~~

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

12 (3) The interagency committee for outdoor recreation shall require
13 each applicant for acquisition or development funds under this section
14 to comply with the requirements of either the state environmental
15 policy act, chapter 43.21C RCW, or the national environmental policy
16 act (42 U.S.C. Sec. 4321 et seq.).

17 **Sec. 8.** RCW 46.09.280 and 2003 c 185 s 1 are each amended to read
18 as follows:

19 (1) The interagency committee for outdoor recreation shall
20 establish the nonhighway and off-road vehicle activities advisory
21 committee to provide advice regarding the administration of this
22 chapter. The ((~~nonhighway and off road vehicle advisory~~)) committee
23 consists of governmental representatives, land managers, and a
24 proportional representation of persons with recreational experience in
25 areas identified in the most recent fuel use study, including but not
26 limited to people with ((~~off road vehicle~~)) ORV, hiking, equestrian,
27 mountain biking, hunting, fishing, and wildlife viewing experience.

28 ~~((Only representatives of organized ORV groups may be voting~~
29 ~~members of the committee with respect to)) (2) After the advisory~~

30 committee has made recommendations regarding the expenditure of the
31 fuel tax revenue portion of the nonhighway and off-road vehicle account
32 moneys, the advisory committee's ORV and mountain biking
33 recreationists, governmental representatives, and land managers will
34 make recommendations regarding the expenditure of funds received under
35 RCW 46.09.110.

1 (3) At least once a year, the interagency committee for outdoor
2 recreation, the department of natural resources, the department of fish
3 and wildlife, and the state parks and recreation commission shall
4 report to the nonhighway and off-road vehicle activities advisory
5 committee on the expenditures of funds received under RCW 46.09.110 and
6 46.09.170 and must proactively seek the advisory committee's advice
7 regarding proposed expenditures.

8 (4) The advisory committee shall advise these agencies regarding
9 the allocation of funds received under RCW 46.09.170 to ensure that
10 overall expenditures reflect consideration of the results of the most
11 recent fuel use study.

12 **Sec. 9.** RCW 46.09.050 and 1986 c 206 s 3 are each amended to read
13 as follows:

14 ORV use permits and ORV tags shall be required under the provisions
15 of this chapter except for the following:

16 (1) Off-road vehicles owned and operated by the United States,
17 another state, or a political subdivision thereof.

18 (2) Off-road vehicles owned and operated by this state, or by any
19 municipality or political subdivision thereof.

20 ~~(3) ((An off-road vehicle operating in an organized competitive~~
21 ~~event on privately owned or leased land: PROVIDED, That if such leased~~
22 ~~land is owned by the state of Washington this exemption shall not apply~~
23 ~~unless the state agency exercising jurisdiction over the land in~~
24 ~~question specifically authorizes said competitive event: PROVIDED~~
25 ~~FURTHER, That such exemption shall be strictly construed.~~

26 ~~(4))~~ Off-road vehicles operated on agricultural lands owned or
27 leased by the ORV owner or operator ~~((or on lands which the operator~~
28 ~~has permission to operate without an ORV use permit))~~.

29 ~~((5))~~ (4) Off-road vehicles owned by a resident of another state
30 that have a valid ORV permit or vehicle license issued in accordance
31 with the laws of the other state. This exemption shall apply only to
32 the extent that a similar exemption or privilege is granted under the
33 laws of that state.

34 ~~((6))~~ (5) Off-road vehicles while being used for search and
35 rescue purposes under the authority or direction of an appropriate
36 search and rescue or law enforcement agency.

1 ~~((7) Vehicles used primarily for construction or inspection~~
2 ~~purposes during the course of a commercial operation.~~

3 ~~(8))~~ (6) Vehicles which are licensed pursuant to chapter 46.16 RCW
4 or in the case of nonresidents, vehicles which are validly licensed for
5 operation over public highways in the jurisdiction of the owner's
6 residence.

7 NEW SECTION. **Sec. 10.** A new section is added to chapter 46.09 RCW
8 to read as follows:

9 Except as provided in RCW 46.09.050, it is unlawful for any dealer
10 to sell at retail an off-road vehicle without an ORV use permit
11 required in RCW 46.09.040.

12 NEW SECTION. **Sec. 11.** (1) Section 3 of this act expires July 1,
13 2004.

14 (2) Section 4 of this act takes effect July 1, 2004.

15 (3) Section 5 of this act expires June 30, 2005.

16 (4) Section 6 of this act takes effect June 30, 2005."

SHB 2489 - S COMM AMD
By Committee on Parks, Fish & Wildlife

ADOPTED 03/05/2004

17 On page 1, beginning on line 1 of the title, after "vehicles;"
18 strike the remainder of the title and insert "amending RCW 46.09.020,
19 46.09.110, 46.09.130, 46.09.130, 46.09.240, 46.09.280, and 46.09.050;
20 reenacting and amending RCW 46.09.170 and 46.09.170; adding a new
21 section to chapter 46.09 RCW; providing effective dates; and providing
22 expiration dates."

--- END ---