

FINAL BILL REPORT

SHB 2489

C 105 L 04

Synopsis as Enacted

Brief Description: Concerning nonhighway and off-road vehicles.

Sponsors: By House Committee on Fisheries, Ecology & Parks (originally sponsored by Representatives Cooper, Condotta, Anderson, Nixon, Upthegrove, Priest, Dunshee, Moeller and Armstrong).

House Committee on Fisheries, Ecology & Parks
Senate Committee on Parks, Fish & Wildlife

Background:

Fuel tax paid on gasoline consumed for recreational purposes on nonhighway roads is used to support nonhighway and off-road vehicle (ORV) recreational facilities. The State Treasurer deposits 1 percent of the eligible fuel tax revenue into the Nonhighway and Off-road Vehicle Activities (NOVA) Account. Funds from the NOVA Account are distributed by statutory formula including:

- 40 percent is deposited in the ORV and Nonhighway Vehicle Account (ORV Account) for the Department of Natural Resources (DNR) to maintain and manage ORV and nonhighway road recreational facilities. 10 percent of these funds is transferred to the Interagency Committee for Outdoor Recreation (IAC) for education and enforcement;
- 3.5 percent is deposited in the ORV Account and administered by the Department of Fish and Wildlife (WDFW) for acquisition, planning, development, maintenance, and management of nonhighway roads and recreation facilities;
- 2 percent is deposited in the ORV Account and administered by the State Parks and Recreation Commission for the maintenance and management of ORV facilities; and
- 54.5 percent is deposited in the NOVA Account and administered by the IAC for the planning, maintenance, and management of ORV and nonhighway road recreational facilities, as well as ORV education and law enforcement programs.

The NOVA Advisory Committee is appointed by the IAC and provides advice regarding the administration of the NOVA program, including the evaluation of NOVA projects submitted for funding. Funds distributed to the IAC for the NOVA grant program are subject to the following spending restrictions:

- up to 20 percent for ORV education, information, and law enforcement;
- up to 60 percent for ORV recreation facilities; and

- up to 20 percent for nonhighway road recreation facilities.

Applicants for land acquisition projects must conduct public hearings and publish notices before submitting their project to the IAC.

A fuel use study was completed in 2003 to determine the relative portion of motor fuel tax revenues attributable to off-road vehicle and nonhighway road recreational activities. Legislation passed in the 2003 session directed an advisory committee of stakeholders to review the existing allocation formulas and develop recommendations consistent with the fuel use study.

ORV use permits are required to operate an ORV within the state. However, there are several exceptions to ORV use permit requirements, including ORVs owned by government agencies or ORVs used for exempt purposes.

Summary:

The allocation of NOVA funds to the DNR is decreased from 40 percent to 36 percent, and the transfer of funds from the DNR to the IAC for enforcement and education is eliminated. Categorical restrictions on the use of DNR's NOVA funds are eliminated.

The IAC NOVA Account distribution is increased from 54.5 percent to 58.5 percent. The restriction on education and enforcement funding is increased from 20 percent to 30 percent. Of the remaining funds, not less than 30 percent may be spent in each of three categories including ORV recreation facilities, nonmotorized recreation facilities, and nonhighway road recreation facilities. The minimum percentage may be waived if there are insufficient requests for funds or low scoring projects.

NOVA funds expended on nonmotorized recreation facilities are named after Ira Spring. Expenditures from ORV use permit monies will be based on recommendations from the ORV and mountain biking recreationists, governmental representatives, and land managers serving on the NOVA Advisory Committee.

ORV dealers may not sell an ORV at retail without an ORV use permit unless it is for an exempt use. Certain ORV use permit exemptions are eliminated including ORVs operating in an organized competitive event, ORVs operated on any lands, except agricultural lands owned or leased by the operator, and ORVs used for commercial construction or inspection purposes.

Three types of nonhighway recreational users are established. ORV recreational users include anyone using motorized recreational vehicles, including motorcycles, all-terrain vehicles, or four-wheel drive vehicles. Nonmotorized recreational users include hikers, skiers, mountain bikers, horseback riders, or others that use nonmotorized trails and facilities. Nonhighway road recreational users include persons using nonhighway roads for recreational purposes including hunting, fishing, wildlife viewing, camping, or sightseeing. Technical changes are made to several definitions including alphabetizing the entire definition section.

The NOVA funds may be used by each agency for nonmotorized, ORV, or nonhighway road recreation facilities. At least annually the DNR, the IAC, the WDFW, and the State Parks and

Recreation Commission must report to the Advisory Committee on the expenditure of funds and seek advice on proposed expenditures. The Advisory Committee is expanded to include governmental representatives and land managers.

Public hearing and notice requirements are removed for land acquisition and development projects; however, they must comply with either the State Environmental Policy Act or the National Environmental Policy Act.

Substitute Bill Compared to Original Bill: The substitute bill removes the restriction that only organized ORV groups may be voting members regarding the expenditure of ORV use permit monies and establishes that funds expended on nonmotorized recreation facilities are named after Ira Spring. The substitute bill also restricts ORV dealers from selling ORVs at retail without an ORV use permit, unless it is for an exempt use. Certain ORV use permit exemptions are eliminated including ORVs operating in an organized competitive event, ORVs operated on any lands owned or leased by the operator except agricultural lands, and ORVs used for commercial construction or inspection purposes.

Votes on Final Passage:

House	84	12	
Senate	46	0	(Senate amended)
House	77	16	(House concurred)

Effective: June 10, 2004
July 1, 2004 (Section 4)
June 30, 2005 (Section 6)