

EHB 1003 - S COMM AMD

By Committee on Natural Resources, Ocean & Recreation

ADOPTED 04/14/2005

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 and that these opportunities may
10 reduce conflicts between users and facilitate responsible ORV
11 recreation. However, restrictions intended for motor vehicles may
12 prevent ORV use on certain roads, including forest service roads.
13 Therefore, the legislature finds that local, state, and federal
14 jurisdictions should be given the flexibility to allow ORV use on
15 nonhighway roads they own and manage or for which they are authorized
16 to allow public ORV use under an easement granted by the owner.
17 Nothing in this act authorizes trespass on private property.

18 **Sec. 2.** RCW 46.09.010 and 1972 ex.s. c 153 s 2 are each amended to
19 read as follows:

20 The provisions of this chapter shall apply to all lands in this
21 state. Nothing in this chapter (~~((43.09-RCW))~~), RCW (~~((67.32.050,~~
22 ~~67.32.080, 67.32.100, 67.32.130 or 67.32.140))~~ 79A.35.040, 79A.35.070,
23 79A.35.090, 79A.35.110, and 79A.35.120 shall be deemed to grant to any
24 person the right or authority to enter upon private property without
25 permission of the property owner.

26 **Sec. 3.** RCW 46.09.120 and 2003 c 377 s 1 are each amended to read
27 as follows:

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

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

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

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

11 (d) Without a spark arrester approved by the department of natural
12 resources;

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

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

23 (ii) With the vehicle stationary and the engine running at a steady
24 speed equal to one-half of the manufacturer's maximum allowable ("red
25 line") engine speed or where the manufacturer's maximum allowable
26 engine speed is not known the test speed in revolutions per minute
27 calculated as sixty percent of the speed at which maximum horsepower is
28 developed; and

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

33 (f) On lands not owned by the operator or owner of the nonhighway
34 vehicle upon the shoulder or inside bank or slope of any nonhighway
35 road or highway, or upon the median of any divided highway;

36 (g) On lands not owned by the operator or owner of the nonhighway
37 vehicle in any area or in such a manner so as to unreasonably expose

1 the underlying soil, or to create an erosion condition, or to injure,
2 damage, or destroy trees, growing crops, or other vegetation;

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

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

8 (j) On a private nonhighway road in violation of section 4(3) of
9 this act.

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

13 (3)(a) Except for an off-road vehicle equipped with seat belts and
14 roll bars or an enclosed passenger compartment, it is a traffic
15 infraction for any person to operate or ride an off-road vehicle on a
16 nonhighway road without wearing upon his or her head a motorcycle
17 helmet fastened securely while in motion. For purposes of this
18 section, "motorcycle helmet" has the same meaning as provided in RCW
19 46.37.530.

20 (b) Subsection (3)(a) of this section does not apply to an off-road
21 vehicle operator operating on his or her own land.

22 (c) Subsection (3)(a) of this section does not apply to an off-road
23 vehicle operator operating on agricultural lands owned or leased by the
24 off-road vehicle operator or the operator's employer.

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

27 (1) Except as otherwise provided in this section, it is lawful to
28 operate an off-road vehicle upon a nonhighway road and in parking areas
29 serving designated off-road vehicle areas if the state, federal, local,
30 or private authority responsible for the management of the nonhighway
31 road authorizes the use of off-road vehicles.

32 (2) Operations of an off-road vehicle on a nonhighway road under
33 this section is exempt from licensing requirements of RCW 46.16.010 and
34 vehicle lighting and equipment requirements of chapter 46.37 RCW.

35 (3) It is unlawful to operate an off-road vehicle upon a private
36 nonhighway road if the road owner has not authorized the use of off-
37 road vehicles.

1 (4) Nothing in this section authorizes trespass on private
2 property.

3 NEW SECTION. **Sec. 5.** A new section is added to chapter 46.09 RCW
4 to read as follows:

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

8 (2) Persons under thirteen years of age may operate an off-road
9 vehicle on a nonhighway road designated for off-road vehicle use under
10 the direct supervision of a person eighteen years of age or older
11 possessing a valid license to operate a motor vehicle under chapter
12 46.20 RCW.

13 **Sec. 6.** RCW 46.16.010 and 2003 c 353 s 8 and 2003 c 53 s 238 are
14 each reenacted and amended to read as follows:

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

20 (2) Failure to make initial registration before operation on the
21 highways of this state is a misdemeanor, and any person convicted
22 thereof must be punished by a fine of no less than three hundred thirty
23 dollars, no part of which may be suspended or deferred.

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

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

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

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

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

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

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

8 (a) Motorized foot scooters;

9 (b) Electric-assisted bicycles;

10 (c) Off-road vehicles operating on nonhighway roads under section
11 4 of this act;

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

19 ((+d)) (e) Spray or fertilizer applicator rigs designed and used
20 exclusively for spraying or fertilization in the conduct of
21 agricultural operations and not primarily for the purpose of
22 transportation, and nurse rigs or equipment auxiliary to the use of and
23 designed or modified for the fueling, repairing, or loading of spray
24 and fertilizer applicator rigs and not used, designed, or modified
25 primarily for the purpose of transportation;

26 ((+e)) (f) Fork lifts operated during daylight hours on public
27 highways adjacent to and within five hundred feet of the warehouses
28 which they serve: PROVIDED FURTHER, That these provisions shall not
29 apply to vehicles used by the state parks and recreation commission
30 exclusively for park maintenance and operations upon public highways
31 within state parks;

32 ((+f)) (g) "Special highway construction equipment" defined as
33 follows: Any vehicle which is designed and used primarily for grading
34 of highways, paving of highways, earth moving, and other construction
35 work on highways and which is not designed or used primarily for the
36 transportation of persons or property on a public highway and which is
37 only incidentally operated or moved over the highway. It includes, but
38 is not limited to, road construction and maintenance machinery so

1 designed and used such as portable air compressors, air drills, asphalt
2 spreaders, bituminous mixers, bucket loaders, track laying tractors,
3 ditchers, leveling graders, finishing machines, motor graders, paving
4 mixers, road rollers, scarifiers, earth moving scrapers and carryalls,
5 lighting plants, welders, pumps, power shovels and draglines, self-
6 propelled and tractor-drawn earth moving equipment and machinery,
7 including dump trucks and tractor-dump trailer combinations which
8 either (i) are in excess of the legal width, or (ii) which, because of
9 their length, height, or unladen weight, may not be moved on a public
10 highway without the permit specified in RCW 46.44.090 and which are not
11 operated laden except within the boundaries of the project limits as
12 defined by the contract, and other similar types of construction
13 equipment, or (iii) which are driven or moved upon a public highway
14 only for the purpose of crossing such highway from one property to
15 another, provided such movement does not exceed five hundred feet and
16 the vehicle is equipped with wheels or pads which will not damage the
17 roadway surface.

18 Exclusions:

19 "Special highway construction equipment" does not include any of
20 the following:

21 Dump trucks originally designed to comply with the legal size and
22 weight provisions of this code notwithstanding any subsequent
23 modification which would require a permit, as specified in RCW
24 46.44.090, to operate such vehicles on a public highway, including
25 trailers, truck-mounted transit mixers, cranes and shovels, or other
26 vehicles designed for the transportation of persons or property to
27 which machinery has been attached.

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

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

36 (b) A tow dolly that is used for towing a motor vehicle behind
37 another motor vehicle. The front or rear wheels of the towed vehicle

1 are secured to and rest on the tow dolly that is attached to the towing
2 vehicle by a tow bar.

3 **Sec. 7.** RCW 46.37.010 and 1997 c 241 s 14 are each amended to read
4 as follows:

5 (1) It is a traffic infraction for any person to drive or move or
6 for the owner to cause or knowingly permit to be driven or moved on any
7 highway any vehicle or combination of vehicles which is in such unsafe
8 condition as to endanger any person, or which does not contain those
9 parts or is not at all times equipped with such lamps and other
10 equipment in proper condition and adjustment as required in this
11 chapter or in regulations issued by the chief of the Washington state
12 patrol, or which is equipped in any manner in violation of this chapter
13 or the state patrol's regulations, or for any person to do any act
14 forbidden or fail to perform any act required under this chapter or the
15 state patrol's regulations.

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

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

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

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

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

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

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

4 ~~((+8))~~ (9) Notices of traffic infraction issued to commercial
5 drivers under the provisions of this chapter with respect to equipment
6 required on commercial motor vehicles shall not be considered for
7 driver improvement purposes under chapter 46.20 RCW.

8 ~~((+9))~~ (10) Whenever a traffic infraction is chargeable to the
9 owner or lessee of a vehicle under subsection (1) of this section, the
10 driver shall not be arrested or issued a notice of traffic infraction
11 unless the vehicle is registered in a jurisdiction other than
12 Washington state, or unless the infraction is for an offense that is
13 clearly within the responsibility of the driver.

14 ~~((+10))~~ (11) Whenever the owner or lessee is issued a notice of
15 traffic infraction under this section the court may, on the request of
16 the owner or lessee, take appropriate steps to make the driver of the
17 vehicle, or any other person who directs the loading, maintenance, or
18 operation of the vehicle, a codefendant. If the codefendant is held
19 solely responsible and is found to have committed the traffic
20 infraction, the court may dismiss the notice against the owner or
21 lessee.

22 NEW SECTION. **Sec. 8.** This act is necessary for the immediate
23 preservation of the public peace, health, or safety, or support of the
24 state government and its existing public institutions, and takes effect
25 July 1, 2005."

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ADOPTED 04/14/2005

26 On page 1, line 1 of the title, after "roadways;" strike the
27 remainder of the title and insert "amending RCW 46.09.010, 46.09.120,
28 and 46.37.010; reenacting and amending RCW 46.16.010; adding new
29 sections to chapter 46.09 RCW; creating a new section; providing an

1 effective date; and declaring an emergency."

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