
HOUSE BILL 1003

State of Washington

59th Legislature

2005 Regular Session

By Representatives Hinkle, B. Sullivan, Curtis, Campbell, Blake, Dunn and Condotta

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1 AN ACT Relating to the operation of off-road vehicles on roadways;
2 amending RCW 46.09.120 and 46.37.010; reenacting and amending RCW
3 46.16.010; adding new sections to chapter 46.09 RCW; creating a new
4 section; providing an effective date; and declaring an emergency.

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

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

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

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

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

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

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

13 (d) Without a spark arrester approved by the department of natural
14 resources;

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

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

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

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

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

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

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

8 (i) On any public lands in violation of rules and regulations of
9 the agency administering such lands.

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

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

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

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

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

27 (2) Persons under sixteen years of age may operate an off-road
28 vehicle on a nonhighway road designated for off-road vehicle use under
29 the direct supervision of a person eighteen years of age or older
30 possessing a valid license to operate a motor vehicle under chapter
31 46.20 RCW.

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

34 (1) It is unlawful for a person to operate any vehicle over and
35 along a public highway of this state without first having obtained and

1 having in full force and effect a current and proper vehicle license
2 and display vehicle license number plates therefor as by this chapter
3 provided.

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

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

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

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

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

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

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

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

27 (a) Motorized foot scooters;

28 (b) Electric-assisted bicycles;

29 (c) Off-road vehicles operating on nonhighway roads under section
30 3 of this act;

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

1 ~~((d))~~ (e) Spray or fertilizer applicator rigs designed and used
2 exclusively for spraying or fertilization in the conduct of
3 agricultural operations and not primarily for the purpose of
4 transportation, and nurse rigs or equipment auxiliary to the use of and
5 designed or modified for the fueling, repairing, or loading of spray
6 and fertilizer applicator rigs and not used, designed, or modified
7 primarily for the purpose of transportation;

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

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

38 Exclusions:

1 "Special highway construction equipment" does not include any of
2 the following:

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

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

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

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

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

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

35 (2) Nothing contained in this chapter or the state patrol's
36 regulations shall be construed to prohibit the use of additional parts

1 and accessories on any vehicle not inconsistent with the provisions of
2 this chapter or the state patrol's regulations.

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

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

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

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

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

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

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

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

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

1 solely responsible and is found to have committed the traffic
2 infraction, the court may dismiss the notice against the owner or
3 lessee.

4 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
5 preservation of the public peace, health, or safety, or support of the
6 state government and its existing public institutions, and takes effect
7 July 1, 2005.

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