
HOUSE BILL 2617

State of Washington

59th Legislature

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By Representatives Kretz, Blake, Ahern, Schindler, Sump, Condotta, Holmquist, Kristiansen, Serben, Campbell, McDonald, Hinkle and Dunn

Read first time 01/11/2006. Referred to Committee on Transportation.

1 AN ACT Relating to allowing local jurisdictions to allow off-road
2 vehicles to operate on designated city or county roads; amending RCW
3 46.09.115, 46.09.120, 46.09.180, and 46.37.010; and reenacting and
4 amending RCW 46.16.010.

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

6 **Sec. 1.** RCW 46.16.010 and 2005 c 350 s 1, 2005 c 323 s 2, and 2005
7 c 213 s 6 are each reenacted and amended to read as follows:

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

13 (2) Failure to make initial registration before operation on the
14 highways of this state is a traffic infraction, and any person
15 committing this infraction shall pay a penalty of five hundred twenty-
16 nine dollars, no part of which may be suspended or deferred.

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

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

5 (a) For a first offense, up to one year in the county jail and
6 payment of a fine of five hundred twenty-nine dollars plus twice the
7 amount of delinquent taxes and fees, no part of which may be suspended
8 or deferred;

9 (b) For a second or subsequent offense, up to one year in the
10 county jail and payment of a fine of five hundred twenty-nine dollars
11 plus four times the amount of delinquent taxes and fees, no part of
12 which may be suspended or deferred;

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

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

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

20 (a) Motorized foot scooters;

21 (b) Electric-assisted bicycles;

22 (c) Off-road vehicles operating on nonhighway roads under RCW
23 46.09.115;

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

31 (e) Spray or fertilizer applicator rigs designed and used
32 exclusively for spraying or fertilization in the conduct of
33 agricultural operations and not primarily for the purpose of
34 transportation, and nurse rigs or equipment auxiliary to the use of and
35 designed or modified for the fueling, repairing, or loading of spray
36 and fertilizer applicator rigs and not used, designed, or modified
37 primarily for the purpose of transportation;

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

7 (g) "Trams" used for transporting persons to and from facilities
8 related to the horse racing industry as regulated in chapter 67.16 RCW,
9 as long as the public right-of-way routes over which the trams operate
10 are not more than one mile from end to end, the public rights-of-way
11 over which the tram operates have an average daily traffic of not more
12 than 15,000 vehicles per day, and the activity is in conformity with
13 federal law. The operator must be a licensed driver and at least
14 eighteen years old. For the purposes of this section, "tram" also
15 means a vehicle, or combination of vehicles linked together with a
16 single mode of propulsion, used to transport persons from one location
17 to another;

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

1 another, provided such movement does not exceed five hundred feet and
2 the vehicle is equipped with wheels or pads which will not damage the
3 roadway surface.

4 Exclusions:

5 "Special highway construction equipment" does not include any of
6 the following:

7 Dump trucks originally designed to comply with the legal size and
8 weight provisions of this code notwithstanding any subsequent
9 modification which would require a permit, as specified in RCW
10 46.44.090, to operate such vehicles on a public highway, including
11 trailers, truck-mounted transit mixers, cranes and shovels, or other
12 vehicles designed for the transportation of persons or property to
13 which machinery has been attached.

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

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

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

26 (c) An off-road vehicle operated on a city or county road within a
27 local jurisdiction's boundaries is exempt from license registration and
28 displaying license plates as required by this chapter if the
29 jurisdiction has authorized the operation of off-road vehicles under
30 RCW 46.09.180(2).

31 (7)(a) A motor vehicle subject to initial or renewal registration
32 under this section shall not be registered to a natural person unless
33 the person at time of application:

- 34 (i) Presents an unexpired Washington state driver's license; or
35 (ii) Certifies that he or she is:

36 (A) A Washington resident who does not operate a motor vehicle on
37 public roads; or

1 (B) Exempt from the requirement to obtain a Washington state
2 driver's license under RCW 46.20.025.

3 (b) For shared or joint ownership, the department will set up
4 procedures to verify that all owners meet the requirements of this
5 subsection.

6 (c) A person falsifying residency is guilty of a gross misdemeanor
7 punishable only by a fine of five hundred twenty-nine dollars.

8 (d) The department may adopt rules necessary to implement this
9 subsection, including rules under which a natural person applying for
10 registration may be exempt from the requirements of this subsection
11 where the person provides evidence satisfactory to the department that
12 he or she has a valid and compelling reason for not being able to meet
13 the requirements of this subsection.

14 **Sec. 2.** RCW 46.09.115 and 2005 c 213 s 4 are each amended to read
15 as follows:

16 (1) Except as otherwise provided in this section, it is lawful to
17 operate an off-road vehicle upon:

18 (a) A nonhighway road and in parking areas serving designated off-
19 road vehicle areas if the state, federal, local, or private authority
20 responsible for the management of the nonhighway road authorizes the
21 use of off-road vehicles; and

22 (b) Any city or county road within a local jurisdiction's
23 boundaries if the jurisdiction has authorized the operation of off-road
24 vehicles under RCW 46.09.180(2).

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

28 (3) Operations of an off-road vehicle on city or county roads
29 designated under subsection (1)(b) of this section are exempt from the
30 vehicle lighting and equipment requirements of chapter 46.37 RCW.

31 (4) It is unlawful to operate an off-road vehicle upon a private
32 nonhighway road if the road owner has not authorized the use of off-
33 road vehicles.

34 ~~((4))~~ (5) Nothing in this section authorizes trespass on private
35 property.

1 **Sec. 3.** RCW 46.09.120 and 2005 c 213 s 3 are each amended to read
2 as follows:

3 (1) Except as provided in subsection (4) of this section, it is a
4 traffic infraction for any person to operate any 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 upon the shoulder or inside bank or slope of any nonhighway
37 road or highway, or upon the median of any divided 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;

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

10 (j) On a private nonhighway road in violation of RCW 46.09.115(3).

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

14 (3)(a) Except for an off-road vehicle equipped with seat belts and
15 roll bars or an enclosed passenger compartment, it is a traffic
16 infraction for any person to operate or ride an off-road vehicle on a
17 nonhighway road without wearing upon his or her head a motorcycle
18 helmet fastened securely while in motion. For purposes of this
19 section, "motorcycle helmet" has the same meaning as provided in RCW
20 46.37.530.

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

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

26 (4) It is not a traffic infraction to operate an off-road vehicle
27 on a city or county road if the local jurisdiction has authorized the
28 operation of off-road vehicles under RCW 46.09.180(2).

29 **Sec. 4.** RCW 46.09.180 and 1977 ex.s. c 220 s 15 are each amended
30 to read as follows:

31 (1) Notwithstanding any of the provisions of this chapter, any
32 city, county, or other political subdivision of this state, or any
33 state agency, may regulate the operation of nonhighway vehicles on
34 public lands, waters, and other properties under its jurisdiction, and
35 on streets or highways within its boundaries by adopting regulations or
36 ordinances of its governing body, provided such regulations are not
37 less stringent than the provisions of this chapter.

1 (2) The legislative body of a city or county may, by ordinance,
2 designate a road or roads within its jurisdictional boundaries to be
3 suitable for use by off-road vehicles.

4 **Sec. 5.** RCW 46.37.010 and 2005 c 213 s 7 are each amended to read
5 as follows:

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

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

21 (3) The provisions of the chapter and the state patrol's
22 regulations with respect to equipment on vehicles shall not apply to
23 implements of husbandry, road machinery, road rollers, (~~(or)~~) farm
24 tractors, or off-road vehicles operating on a city or county road if
25 the local jurisdiction has authorized the operation of off-road
26 vehicles under RCW 46.09.180(2) except as herein made applicable.

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

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

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

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

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

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

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

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

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