

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2617

59th Legislature
2006 Regular Session

Passed by the House March 4, 2006
Yeas 90 Nays 7

Speaker of the House of Representatives

Passed by the Senate March 1, 2006
Yeas 46 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2617** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 2617

AS AMENDED BY THE SENATE

Passed Legislature - 2006 Regular Session

State of Washington 59th Legislature 2006 Regular Session

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 and 4.24.210.

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 street, road, or highway as
27 authorized under RCW 46.09.180.

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

31 (i) Presents an unexpired Washington state driver's license; or

32 (ii) Certifies that he or she is:

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

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

37 (b) For shared or joint ownership, the department will set up

1 procedures to verify that all owners meet the requirements of this
2 subsection.

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

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

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

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

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

19 (b) A street, road, or highway as authorized under RCW 46.09.180.

20 (2) Operations of an off-road vehicle on a nonhighway road, or on
21 a street, road, or highway as authorized under RCW 46.09.180, under
22 this section is exempt from licensing requirements of RCW 46.16.010 and
23 vehicle lighting and equipment requirements of chapter 46.37 RCW.

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

27 (4) Nothing in this section authorizes trespass on private
28 property.

29 (5) The provisions of RCW 4.24.210(5) shall apply to public
30 landowners who allow members of the public to use public facilities
31 accessed by a highway, street, or nonhighway road for recreational off-
32 road vehicle use.

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

35 (1) Except as provided in subsection (4) of this section, it is a
36 traffic infraction for any person to operate any nonhighway vehicle:

- 1 (a) In such a manner as to endanger the property of another;
- 2 (b) On lands not owned by the operator or owner of the nonhighway
3 vehicle without a lighted headlight and taillight between the hours of
4 dusk and dawn, or when otherwise required for the safety of others
5 regardless of ownership;
- 6 (c) On lands not owned by the operator or owner of the nonhighway
7 vehicle without an adequate braking device or when otherwise required
8 for the safety of others regardless of ownership;
- 9 (d) Without a spark arrester approved by the department of natural
10 resources;
- 11 (e) Without an adequate, and operating, muffling device which
12 effectively limits vehicle noise to no more than eighty-six decibels on
13 the "A" scale at fifty feet as measured by the Society of Automotive
14 Engineers (SAE) test procedure J 331a, except that a maximum noise
15 level of one hundred and five decibels on the "A" scale at a distance
16 of twenty inches from the exhaust outlet shall be an acceptable
17 substitute in lieu of the Society of Automotive Engineers test
18 procedure J 331a when measured:
- 19 (i) At a forty-five degree angle at a distance of twenty inches
20 from the exhaust outlet;
- 21 (ii) With the vehicle stationary and the engine running at a steady
22 speed equal to one-half of the manufacturer's maximum allowable ("red
23 line") engine speed or where the manufacturer's maximum allowable
24 engine speed is not known the test speed in revolutions per minute
25 calculated as sixty percent of the speed at which maximum horsepower is
26 developed; and
- 27 (iii) With the microphone placed ten inches from the side of the
28 vehicle, one-half way between the lowest part of the vehicle body and
29 the ground plane, and in the same lateral plane as the rearmost exhaust
30 outlet where the outlet of the exhaust pipe is under the vehicle;
- 31 (f) On lands not owned by the operator or owner of the nonhighway
32 vehicle upon the shoulder or inside bank or slope of any nonhighway
33 road or highway, or upon the median of any divided highway;
- 34 (g) On lands not owned by the operator or owner of the nonhighway
35 vehicle in any area or in such a manner so as to unreasonably expose
36 the underlying soil, or to create an erosion condition, or to injure,
37 damage, or destroy trees, growing crops, or other vegetation;

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

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

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

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

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

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

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

22 (4) It is not a traffic infraction to operate an off-road vehicle
23 on a street, road, or highway as authorized under RCW 46.09.180.

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

26 Notwithstanding any of the provisions of this chapter, any city,
27 county, or other political subdivision of this state, or any state
28 agency, may regulate the operation of nonhighway vehicles on public
29 lands, waters, and other properties under its jurisdiction, and on
30 streets, roads, or highways within its boundaries by adopting
31 regulations or ordinances of its governing body, provided such
32 regulations are not less stringent than the provisions of this chapter.
33 However, the legislative body of a city with a population of less than
34 three thousand persons may, by ordinance, designate a street or highway
35 within its boundaries to be suitable for use by off-road vehicles. The
36 legislative body of a county may, by ordinance, designate a road or
37 highway within its boundaries to be suitable for use by off-road

1 vehicles if the road or highway is a direct connection between a city
2 with a population of less than three thousand persons and an off-road
3 vehicle recreation facility.

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 tractors
24 except as herein made applicable.

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

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

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

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

1 nonhighway roads or used on streets, roads, or highways as authorized
2 under RCW 46.09.180.

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.

24 **Sec. 6.** RCW 4.24.210 and 2003 c 39 s 2 and 2003 c 16 s 2 are each
25 reenacted and amended to read as follows:

26 (1) Except as otherwise provided in subsection (3) or (4) of this
27 section, any public or private landowners or others in lawful
28 possession and control of any lands whether designated resource, rural,
29 or urban, or water areas or channels and lands adjacent to such areas
30 or channels, who allow members of the public to use them for the
31 purposes of outdoor recreation, which term includes, but is not limited
32 to, the cutting, gathering, and removing of firewood by private persons
33 for their personal use without purchasing the firewood from the
34 landowner, hunting, fishing, camping, picnicking, swimming, hiking,
35 bicycling, skateboarding or other nonmotorized wheel-based activities,
36 hanggliding, paragliding, rock climbing, the riding of horses or other
37 animals, clam digging, pleasure driving of off-road vehicles,

1 snowmobiles, and other vehicles, boating, nature study, winter or water
2 sports, viewing or enjoying historical, archaeological, scenic, or
3 scientific sites, without charging a fee of any kind therefor, shall
4 not be liable for unintentional injuries to such users.

5 (2) Except as otherwise provided in subsection (3) or (4) of this
6 section, any public or private landowner or others in lawful possession
7 and control of any lands whether rural or urban, or water areas or
8 channels and lands adjacent to such areas or channels, who offer or
9 allow such land to be used for purposes of a fish or wildlife
10 cooperative project, or allow access to such land for cleanup of litter
11 or other solid waste, shall not be liable for unintentional injuries to
12 any volunteer group or to any other users.

13 (3) Any public or private landowner, or others in lawful possession
14 and control of the land, may charge an administrative fee of up to
15 twenty-five dollars for the cutting, gathering, and removing of
16 firewood from the land.

17 (4) Nothing in this section shall prevent the liability of a
18 landowner or others in lawful possession and control for injuries
19 sustained to users by reason of a known dangerous artificial latent
20 condition for which warning signs have not been conspicuously posted.
21 A fixed anchor used in rock climbing and put in place by someone other
22 than a landowner is not a known dangerous artificial latent condition
23 and a landowner under subsection (1) of this section shall not be
24 liable for unintentional injuries resulting from the condition or use
25 of such an anchor. Nothing in RCW 4.24.200 and ~~((4.24.210))~~ this
26 section limits or expands in any way the doctrine of attractive
27 nuisance. Usage by members of the public, volunteer groups, or other
28 users is permissive and does not support any claim of adverse
29 possession.

30 (5) For purposes of this section, the following are not fees:

31 (a) A license or permit issued for statewide use under authority of
32 chapter 79A.05 RCW or Title 77 RCW ~~((is not a fee))~~; and

33 (b) A daily charge not to exceed twenty dollars per person, per
34 day, for access to a publicly owned ORV sports park, as defined in RCW
35 46.09.020, or other public facility accessed by a highway, street, or
36 nonhighway road for the purposes of off-road vehicle use.

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