
SENATE BILL 6687

State of Washington

59th Legislature

2006 Regular Session

By Senators Fraser and Kline

Read first time 01/18/2006. Referred to Committee on Water, Energy & Environment.

1 AN ACT Relating to off-road vehicle noise; amending RCW 46.09.170,
2 70.107.050, and 70.107.060; creating new sections; and prescribing
3 penalties.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that, as the
6 population of Washington and the popularity of recreational off-road
7 vehicle use have increased, a growing number of informal off-road
8 vehicle tracks and riding areas have emerged in residential areas.
9 Excessive noise generated by off-road vehicle use in such areas has
10 affected the residents of nearby properties, impacting property values,
11 health, and the ability of residents to enjoy peace and quiet in their
12 homes and yards.

13 The legislature finds that, despite their efforts, many of those
14 who live in close proximity to informal off-road vehicle riding areas
15 have been unable to prompt their local governments to address noise
16 issues.

17 Therefore, the legislature intends to strengthen provisions
18 governing off-road vehicle noise and to provide tools and resources to

1 state agencies, local government, and citizens, in order to better
2 protect individuals from the effects of excessive off-road vehicle
3 noise in residential areas.

4 NEW SECTION. **Sec. 2.** The department of ecology shall, by June 30,
5 2007:

6 (1) Evaluate the adverse effects of off-road vehicle noise in
7 residential areas; and

8 (2) Revise the environmental noise rules and sound level
9 measurement procedures adopted under chapter 70.107 RCW in order to:

10 (a) Strengthen the decibel standards applied to off-road vehicle
11 noise in order to address the adverse effects found by the department
12 under subsection (1) of this section; and

13 (b) Create alternative methods for the measurement of off-road
14 vehicle sound levels or alternative environmental noise standards that
15 would allow for the enforcement of noise standards without requiring
16 the use of expensive equipment or a sophisticated measurement process.

17 **Sec. 3.** RCW 46.09.170 and 2004 c 105 s 6 are each amended to read
18 as follows:

19 (1) From time to time, but at least once each year, the state
20 treasurer shall refund from the motor vehicle fund one percent of the
21 motor vehicle fuel tax revenues collected under chapter 82.36 RCW,
22 based on a tax rate of: (a) Nineteen cents per gallon of motor vehicle
23 fuel from July 1, 2003, through June 30, 2005; (b) twenty cents per
24 gallon of motor vehicle fuel from July 1, 2005, through June 30, 2007;
25 (c) twenty-one cents per gallon of motor vehicle fuel from July 1,
26 2007, through June 30, 2009; (d) twenty-two cents per gallon of motor
27 vehicle fuel from July 1, 2009, through June 30, 2011; and (e) twenty-
28 three cents per gallon of motor vehicle fuel beginning July 1, 2011,
29 and thereafter, less proper deductions for refunds and costs of
30 collection as provided in RCW 46.68.090.

31 (2) The treasurer shall place these funds in the general fund as
32 follows:

33 (a) Thirty-six percent shall be credited to the ORV and nonhighway
34 vehicle account and administered by the department of natural resources
35 solely for acquisition, planning, development, maintenance, and

1 management of ORV, nonmotorized, and nonhighway road recreation
2 facilities, and information programs and maintenance of nonhighway
3 roads;

4 (b) Three and one-half percent shall be credited to the ORV and
5 nonhighway vehicle account and administered by the department of fish
6 and wildlife solely for the acquisition, planning, development,
7 maintenance, and management of ORV, nonmotorized, and nonhighway road
8 recreation facilities and the maintenance of nonhighway roads;

9 (c) Two percent shall be credited to the ORV and nonhighway vehicle
10 account and administered by the parks and recreation commission solely
11 for the acquisition, planning, development, maintenance, and management
12 of ORV, nonmotorized, and nonhighway road recreation facilities; and

13 (d) Fifty-eight and one-half percent shall be credited to the
14 nonhighway and off-road vehicle activities program account to be
15 administered by the committee for planning, acquisition, development,
16 maintenance, and management of ORV, nonmotorized, and nonhighway road
17 recreation facilities and for education, information, and law
18 enforcement programs. The funds under this subsection shall be
19 expended in accordance with the following limitations:

20 (i) Not more than thirty percent may be expended for education,
21 information, and law enforcement programs under this chapter, including
22 programs involving the enforcement of complaints concerning noise from
23 off-road vehicles in private residential areas. The committee shall
24 inform appropriate state and local agencies of the availability of
25 funding for programs relating to off-road vehicle noise in residential
26 areas and provide the agencies with instructions on how to apply for
27 funds;

28 (ii) Not less than seventy percent may be expended for ORV,
29 nonmotorized, and nonhighway road recreation facilities. Except as
30 provided in (d)(iii) of this subsection, of this amount:

31 (A) Not less than thirty percent, together with the funds the
32 committee receives under RCW 46.09.110, may be expended for ORV
33 recreation facilities;

34 (B) Not less than thirty percent may be expended for nonmotorized
35 recreation facilities. Funds expended under this subsection
36 (2)(d)(ii)(B) shall be known as Ira Spring outdoor recreation
37 facilities funds; and

1 (C) Not less than thirty percent may be expended for nonhighway
2 road recreation facilities;

3 (iii) The committee may waive the minimum percentage cited in
4 (d)(ii) of this subsection due to insufficient requests for funds or
5 projects that score low in the committee's project evaluation. Funds
6 remaining after such a waiver must be allocated in accordance with
7 committee policy.

8 (3) On a yearly basis an agency may not, except as provided in RCW
9 46.09.110, expend more than ten percent of the funds it receives under
10 this chapter for general administration expenses incurred in carrying
11 out this chapter.

12 (4) During the 2003-05 fiscal biennium, the legislature may
13 appropriate such amounts as reflect the excess fund balance in the NOVA
14 account to the interagency committee for outdoor recreation, the
15 department of natural resources, the department of fish and wildlife,
16 and the state parks and recreation commission. This appropriation is
17 not required to follow the specific distribution specified in
18 subsection (2) of this section.

19 **Sec. 4.** RCW 70.107.050 and 1987 c 103 s 2 are each amended to read
20 as follows:

21 (1) Any person who violates any rule adopted by the department
22 under this chapter shall be subject to a civil penalty (~~not to exceed~~
23 ~~one hundred dollars~~) imposed by local government pursuant to this
24 section. The penalty shall be imposed in an amount not to exceed one
25 hundred dollars for the first violation, two hundred fifty dollars for
26 the second violation, and one thousand dollars for the third and all
27 subsequent violations. An action under this section shall not preclude
28 enforcement of any provisions of the local government noise ordinance.

29 Penalties shall become due and payable thirty days from the date of
30 receipt of a notice of penalty unless within such time said notice is
31 appealed in accordance with the administrative procedures of the local
32 government, or if it has no such administrative appeal, to the
33 pollution control hearings board pursuant to the provisions of chapter
34 43.21B RCW and procedural rules adopted thereunder. In cases in which
35 appeals are timely filed, penalties sustained by the local
36 administrative agency or the pollution control hearings board shall

1 become due and payable on the issuance of said agency or board's final
2 order in the appeal.

3 (2) Whenever penalties incurred pursuant to this section have
4 become due and payable but remain unpaid, the attorney for the local
5 government may bring an action in the superior court of the county in
6 which the violation occurred for recovery of penalties incurred. In
7 all such actions the procedures and rules of evidence shall be the same
8 as in any other civil action.

9 **Sec. 5.** RCW 70.107.060 and 1987 c 103 s 1 are each amended to read
10 as follows:

11 (1) Nothing in this chapter shall be construed to deny, abridge or
12 alter alternative rights of action or remedies in equity or under
13 common law or statutory law, criminal or civil.

14 (2) Nothing in this chapter shall deny, abridge or alter any
15 powers, duties and functions relating to noise abatement and control
16 now or hereafter vested in any state agency, nor shall this chapter be
17 construed as granting jurisdiction over the industrial safety and
18 health of employees in work places of the state, as now or hereafter
19 vested in the department of labor and industries.

20 (3) Standards and other control measures adopted by the department
21 under this chapter shall be exclusive except as hereinafter provided.
22 A local government may impose limits or control (~~sources differing~~
23 ~~from~~) measures more stringent than those adopted or controlled by the
24 department upon a finding that such requirements are necessitated by
25 special conditions. Noise limiting requirements of local government
26 which differ from those adopted or controlled by the department shall
27 be invalid unless first approved by the department. If the department
28 of ecology fails to approve or disapprove standards submitted by local
29 governmental jurisdictions within ninety days of submittal, such
30 standards shall be deemed approved. If disapproved, the local
31 government may appeal the decision to the pollution control hearings
32 board which shall decide the appeal on the basis of the provisions of
33 this chapter, and the applicable regulations, together with such
34 briefs, testimony, and oral argument as the hearings board in its
35 discretion may require. The department determination of whether to
36 grant approval shall depend on the reasonableness and practicability of
37 compliance. Particular attention shall be given to stationary sources

1 located near jurisdictional boundaries, and temporary noise producing
2 operations which may operate across one or more jurisdictional
3 boundaries.

4 (4) In carrying out the rule-making authority provided in this
5 chapter, the department shall follow the procedures of the
6 administrative procedure act, chapter 34.05 RCW, and shall take care
7 that no rules adopted purport to exercise any powers preempted by the
8 United States under federal law.

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