
SENATE BILL 6688

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 46.09.120
2 and 46.09.170; creating new sections; and providing an expiration date.

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

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

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

16 Therefore, the legislature intends to strengthen provisions
17 governing off-road vehicle noise and to provide tools and resources to
18 state agencies, local government, and citizens, in order to better

1 protect individuals from the effects of excessive off-road vehicle
2 noise in residential areas.

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

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

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

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

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

15 (d) Without a spark arrester approved by the department of natural
16 resources;

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

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

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

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

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

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

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

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

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

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

17 (3)(a) Except for an off-road vehicle equipped with seat belts and
18 roll bars or an enclosed passenger compartment, it is a traffic
19 infraction for any person to operate or ride an off-road vehicle on a
20 nonhighway road without wearing upon his or her head a motorcycle
21 helmet fastened securely while in motion. For purposes of this
22 section, "motorcycle helmet" has the same meaning as provided in RCW
23 46.37.530.

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

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

29 NEW SECTION. **Sec. 3.** The department of ecology shall, by June 30,
30 2007:

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

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

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

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

5 **Sec. 4.** RCW 46.09.170 and 2004 c 105 s 6 are each amended to read
6 as follows:

7 (1) From time to time, but at least once each year, the state
8 treasurer shall refund from the motor vehicle fund one percent of the
9 motor vehicle fuel tax revenues collected under chapter 82.36 RCW,
10 based on a tax rate of: (a) Nineteen cents per gallon of motor vehicle
11 fuel from July 1, 2003, through June 30, 2005; (b) twenty cents per
12 gallon of motor vehicle fuel from July 1, 2005, through June 30, 2007;
13 (c) twenty-one cents per gallon of motor vehicle fuel from July 1,
14 2007, through June 30, 2009; (d) twenty-two cents per gallon of motor
15 vehicle fuel from July 1, 2009, through June 30, 2011; and (e) twenty-
16 three cents per gallon of motor vehicle fuel beginning July 1, 2011,
17 and thereafter, less proper deductions for refunds and costs of
18 collection as provided in RCW 46.68.090.

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

21 (a) Thirty-six percent shall be credited to the ORV and nonhighway
22 vehicle account and administered by the department of natural resources
23 solely for acquisition, planning, development, maintenance, and
24 management of ORV, nonmotorized, and nonhighway road recreation
25 facilities, and information programs and maintenance of nonhighway
26 roads;

27 (b) Three and one-half percent shall be credited to the ORV and
28 nonhighway vehicle account and administered by the department of fish
29 and wildlife solely for the acquisition, planning, development,
30 maintenance, and management of ORV, nonmotorized, and nonhighway road
31 recreation facilities and the maintenance of nonhighway roads;

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

36 (d) Fifty-eight and one-half percent shall be credited to the
37 nonhighway and off-road vehicle activities program account to be

1 administered by the committee for planning, acquisition, development,
2 maintenance, and management of ORV, nonmotorized, and nonhighway road
3 recreation facilities and for education, information, and law
4 enforcement programs. The funds under this subsection shall be
5 expended in accordance with the following limitations:

6 (i) Not more than thirty percent may be expended for education,
7 information, and law enforcement programs under this chapter, including
8 programs involving the enforcement of complaints concerning noise from
9 off-road vehicles in private residential areas. The committee shall
10 inform appropriate state and local agencies of the availability of
11 funding for programs relating to off-road vehicle noise in residential
12 areas and provide the agencies with instructions on how to apply for
13 funds;

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

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

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

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

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

31 (3) On a yearly basis an agency may not, except as provided in RCW
32 46.09.110, expend more than ten percent of the funds it receives under
33 this chapter for general administration expenses incurred in carrying
34 out this chapter.

35 (4) During the 2003-05 fiscal biennium, the legislature may
36 appropriate such amounts as reflect the excess fund balance in the NOVA
37 account to the interagency committee for outdoor recreation, the
38 department of natural resources, the department of fish and wildlife,

1 and the state parks and recreation commission. This appropriation is
2 not required to follow the specific distribution specified in
3 subsection (2) of this section.

4 NEW SECTION. **Sec. 5.** The municipal research council shall, by
5 June 30, 2007, develop model ordinance options for local governments,
6 including options for public disturbance noise ordinances that do not
7 require the use of a decibel meter for enforcement and options for
8 decibel-based noise ordinances.

9 NEW SECTION. **Sec. 6.** (1) The department of natural resources
10 shall convene a working group to develop and propose policy strategies
11 and legislation to address issues relating to access to public and
12 private lands for recreational off-road vehicle use, including:

13 (a) Proposals to improve and increase recreational off-road vehicle
14 use opportunities on public lands where such use is compatible with
15 other types of recreation and the environmental, habitat, and trust
16 responsibilities of the department of natural resources and other
17 public land managers;

18 (b) Proposals for reducing the conflicts and safety issues posed by
19 the growing pressure on public and private lands open to recreational
20 off-road vehicle use, including recommendations for reducing noise and
21 land use conflicts in residential neighborhoods and for reducing
22 landowner liability through changes to the recreation use immunity
23 statute, RCW 4.24.210; and

24 (c) Proposals to ensure the existence of the financial resources
25 necessary to provide access to public lands for recreational off-road
26 vehicle use, including funding for agency planning and management
27 activities, land stewardship and trail maintenance, and education and
28 enforcement programs.

29 (2) The working group consists of the following:

30 (a) Two members from each of the two largest caucuses of the
31 senate, appointed by the president of the senate;

32 (b) Two members from each of the two largest caucuses of the house
33 of representatives, appointed by the speaker of the house of
34 representatives;

35 (c) One member from the department of natural resources, appointed
36 by the commissioner of public lands;

1 (d) One member from the department of fish and wildlife, appointed
2 by the director of the department of fish and wildlife;

3 (e) One member from the state parks and recreation commission,
4 appointed by the director of the state parks and recreation commission;

5 (f) One member from the interagency committee for outdoor
6 recreation, appointed by the director of the interagency committee for
7 outdoor recreation;

8 (g) One member representing county governments, appointed by the
9 Washington state association of counties;

10 (h) One member representing the United States forest service,
11 invited by the commissioner of public lands;

12 (i) Two members representing off-road vehicle recreational user
13 groups, invited by the commissioner of public lands;

14 (j) Two members representing nonmotorized recreational user groups,
15 invited by the governor;

16 (k) One member representing private land managers, invited by the
17 governor;

18 (l) One member representing the off-road vehicle industry, invited
19 by the governor;

20 (m) One member representing an environmental protection
21 organization, appointed by the governor;

22 (n) One member representing local law enforcement, invited by the
23 Washington association of sheriffs and police chiefs; and

24 (o) One member representing those residents of residential areas
25 who are impacted by unwanted off-road vehicle noise, appointed by the
26 governor.

27 (3) In carrying out its duties, the working group shall hold no
28 fewer than six meetings, shall provide notice of its meetings on the
29 department of natural resources' web site, and shall take testimony and
30 accept information and suggestions from interested citizens and
31 organizations.

32 (4) The working group shall provide its policy strategies and
33 legislative proposals to the appropriate policy and fiscal committees
34 of the senate and house of representatives by December 31, 2006.

35 (5) This section expires June 30, 2007.

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