

HOUSE BILL REPORT

E2SSB 5366

As Reported by House Committee On: Transportation

Title: An act relating to regulating the use of off-road vehicles in certain areas.

Brief Description: Regulating the use of off-road vehicles in certain areas.

Sponsors: Senate Committee on Transportation (originally sponsored by Senators Delvin, Hewitt and Stevens).

Brief History:

Committee Activity:

Transportation: 3/23/11, 3/30/11, 2/24/12 [DPA].

Brief Summary of Engrossed Second Substitute Bill (As Amended by Committee)

- Authorizes the operation of a four-wheel all-terrain vehicle on any roadway having a speed limit of 35 miles per hour or less providing that certain licensing, insurance, and equipment requirements are met.
- Designates roadways in which four-wheel all-terrain vehicles may be operated.
- Designates roadways in which nonhighway vehicles may be operated.
- Creates the Multiuse Roadway Safety Account to be used for grants and roadway signing.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass as amended. Signed by 23 members: Representatives Clibborn, Chair; Armstrong, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Angel, Eddy, Finn, Fitzgibbon, Hansen, Jinkins, Johnson, Kristiansen, Ladenburg, McCune, Moeller, Moscoso, Overstreet, Reykdal, Rivers, Rodne, Shea, Takko, Upthegrove and Zeiger.

Minority Report: Do not pass. Signed by 2 members: Representatives Liias, Vice Chair; Klippert.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Jerry Long (786-7306).

Background:

A four-wheel, all-terrain vehicle (ATV) is a type of off-road vehicle (ORV) which is defined as any non-street licensed vehicle used for recreational purposes on nonhighway roads, trails, or a variety of other natural terrain.

Generally, ORVs may not be operated on public roadways or highways. However, local governments and state agencies may currently regulate the operation of nonhighway vehicles on public lands, streets, roads, or highways within its jurisdiction by adopting regulations and ordinances, so long as such regulations are not less stringent than state law. Additionally, the legislative body of a city with a population of less than 3,000 may, by ordinance, designate a street or highway within its boundaries to be suitable for use by ORVs. The legislative body of a county may by ordinance designate a road or highway within its boundaries to be suitable for use by ORVs if the road or highway is a direct connection between a city with a population of less than 3,000 people and an off-road facility.

Summary of Amended Bill:

The bill defines a four-wheel ATV as any motorized nonhighway vehicle with handlebars that is 50 inches or less in width, has a seat height of at least 20 inches, weighs less than 1,500 pounds, and has tires having a diameter of 30 inches or less.

A person may operate a four-wheel ATV on any roadway having a speed limit of 35 miles per hour (mph) or less providing that:

- the person has a current and proper vehicle registration and license plate. The registration is \$30 for original or renewal registrations and \$2 for replacement plates;
- the person must have a valid Washington driver's license or a valid driver's license issued by the state of the person's residence if a person is a nonresident;
- the ATV is not registered for commercial use; and
- the person must be insured under a motor vehicle liability policy;

A person may not operate a four-wheel ATV upon state highway routes that are listed in chapter 47.17 RCW; however, a person may operate a four-wheel ATV upon a segment of a state highway listed, if the segment is within the limits of a city and the speed limit on the segment is 35 mph or less.

A person operating a four-wheel ATV may not:

- cross a roadway with a speed limit in excess of 35 mph, unless the crossing begins and ends on a roadway, or an ORV trail with a speed limit of 35 mph or less and occurs at an intersection of approximately 90 degrees. The operator may not cross at an uncontrolled intersection of a state highway route listed in chapter 47.17 RCW;
- operate a four-wheel ATV on the roadways of a city with a population of 15,000 or more unless the city, by ordinance, has approved the operation on the city roadways; and

- operate a four-wheel ATV on roads and highways within a city of less than 15,000 if that city has, by ordinance, designated those roads or highways within its boundaries to be unsuitable for use by the ATVs.

A city must place on their city website the roads that are unsuitable.

A person riding the ATV must obey all of the laws as motorcycle riders except they cannot be operated side-by-side in a single lane. Accidents involving the ATVs must be tracked as a separate category. Local authorities may not establish requirements for the registration of four-wheel ATVs.

A person riding a four-wheel ATV must wear a United States Department of Transportation-approved helmet.

The four-wheel ATV is subject to plate replacement and may retain its license plate number for the required fee of \$20.

The bill creates the Multiuse Roadway Safety Account (Account). The fees from the four-wheel ATVs must be deposited into the Account. Funds may only be spent after appropriation and be used for grants administered by the Washington State Department of Transportation for counties to perform safety engineering analysis of mixed vehicle use on any road within a county, and local governments to provide funding to erect signs providing notice to the motoring public that four-wheel ATVs are present. The Account will receive its proportionate share of investment earnings.

A person may not operate a nonhighway vehicle on public lands unless the land manager has opened the area up for nonhighway vehicle use or it is a traffic violation with a penalty of up to \$500.

Any four-wheel ATV must have a current and proper ORV registration or temporary ORV use permit.

Any four-wheel ATV that is road legal must have a decal identifying the vehicle as being road legal and have a license plate if ridden on roadways. The Department of Licensing (DOL) is directed to design a license plate that can be used on any four-wheel ATV, and will accommodate the decal required under this subsection authorizing on-road usage by four-wheel ATVs.

The registration and decal requirements do not apply to emergency services vehicles, vehicles operated on agricultural and timber lands owned or leased by the ORV owner or operator, or persons rendering assistance in case of an emergency.

The four-wheel ATV must have: headlights and one tail light used at all times while in motion; a stop lamp; reflectors; turn signals; a left handlebar mirror with a view of at least 200 feet to the rear of the vehicle; a windshield unless operator has other eye protection; a horn or warning device; working brakes; and a spark arrester and muffling device.

A person may have a safety inspection completed by a licensed four-wheel ATV dealer or repair shop, the shop did not charge more than \$100, or a person must self-certify under oath that the equipment has been installed on the vehicle and everything is operable.

For purposes of a dealer declaration, the owner of the four-wheel ATV must sign a release, relieving the state of liability, and must also state the four-wheel ATVs was not originally manufactured for on-road use.

It is lawful to operate an ORV upon any road, trail, nonhighway road, or highway within the state while being used under the authority or direction of an appropriate emergency management, search and rescue, or law enforcement agency within the scope of the agency's official duties.

It is unlawful to operate an ORV on any interstate highway, United States highway, numbered state highway, divided highway, or limited access highway and its center median.

No person under 16 years of age may operate an ORV on or across a highway or nonhighway road in this state, except in emergency situations.

Persons under 16 years of age may operate an ORV across a highway, on a nonhighway road designated for ORV use, or on a primitive road under the direct supervision of a person 18 years of age or older possessing a valid driver's license.

The bill modifies the definitions of nonhighway road and ORV recreational facilities, and adds definitions for direct supervision, emergency management, and primitive roads.

A person may operate an nonhighway vehicle upon public lands consistent with the local land management requirements, however, in all events, operation is limited to the roads, trails, and other specifically designated areas.

A violation of the local land management requirements is a traffic infraction with a penalty of up to \$500. For these violations, the officer is not required to witness the infraction, provided there is reasonable evidence to initiate an investigation.

A person may operate a nonhighway vehicle upon public lands consistent with the local land management requirements, however, in all events, operation is limited to the roads, trails, and other specifically designated areas.

The bill removes the existing population thresholds in statute and allows any city or county to designate a road as suitable or unsuitable for ORV use. The legislative body of a city or county may, by ordinance, designate a street, highway, or segment of a highway within its boundaries with a speed limit of greater than 35 mph to be suitable of use by ORVs. The legislative body of a city or county may, by ordinance, designate a road or highway within its boundaries to be unsuitable for use by ORVs. Any roadways authorized by a city or county must be listed publically and made accessible from the main page of the city or county website. This provision only applies to ORVs and not four-wheel ATVs.

The bill provides definitions for direct supervision, emergency management, and primitive roads.

Amended Bill Compared to Engrossed Second Substitute Bill:

Any four-wheel ATV that is road legal must have a decal identifying the vehicle as being road legal. The DOL is directed to design a license plate that can be used on any four-wheel ATV, and will accommodate the decal required under this subsection authorizing on-road usage by four-wheel ATVs.

The registration and decal requirements do not apply to emergency services vehicles, vehicles operated on agricultural and timber lands owned or leased by the ORV owner or operator, or persons rendering assistance in case of an emergency.

The required equipment is modified for a four-wheel ATV. It must have: headlights and one tail light used at all times while in motion; a stop lamp; reflectors; turn signals; a left handlebar mirror with a view of at least 200 feet to the rear of the vehicle; a windshield unless the operator has other eye protection; a horn or warning device; working brakes; and a spark arrester and muffling device. A person must certify under oath, on a form, that this equipment has been installed on the vehicle and everything is operable. A false statement is guilty of a gross misdemeanor.

The amended bill provides for a person to self-certify that the required equipment has been installed on the vehicle, or have documentation that a safety inspection was completed by a licensed four-wheel ATV dealer or repair shop and that the shop did not charge more than \$100.

For purposes of a dealer declaration, the owner of the four-wheel ATV must sign a release, relieving the state of liability, and must also state the original use for the vehicle was not for on-road and was manufactured for off-road use.

Four-wheel ATVs must display a license plate if riding on a roadway with a sticker on the license plate indicating that they are legal for roadway use.

It is lawful to operate an ORV upon any road, trail, nonhighway road, or highway within the state while being used under the authority or direction of an appropriate emergency management, search and rescue, or law enforcement agency within the scope of the agency's official duties.

It is unlawful to operate an ORV on any interstate highway, United States highway, numbered state highway, divided highway, or limited access highway and its center median.

No person under 16 years of age may operate an ORV on or across a highway or nonhighway road in this state, except in emergency situations.

Persons under 16 years of age may operate an ORV across a highway, on a nonhighway road designated for ORV use, or on a primitive road under the direct supervision of a person 18 years of age or older possessing a valid driver's license.

The amended bill modifies the definitions of nonhighway road and ORV recreational facilities, and adds definitions for direct supervision, emergency management, and primitive roads.

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A violation of the local land management requirements is a traffic infraction with a penalty of up to \$500.

For these violations, the officer is not required to witness the infraction, provided there is reasonable evidence to initiate an investigation.

A person may operate a nonhighway vehicle upon public lands consistent with the local land management requirements, however, in all events, operation is limited to the roads, trails, and other specifically designated areas.

The amended bill removes the existing population thresholds in statute and allows any city or county to designate a road as suitable or unsuitable for ORV use. The legislative body of a city or county may, by ordinance, designate a street, highway, or segment of a highway within its boundaries with a speed limit of greater than 35 mph to be suitable for use by ORVs. The legislative body of a city or county may, by ordinance, designate a road or highway within its boundaries to be unsuitable for use by ORVs. Any roadways authorized by a city or county must be listed publically and made accessible from the main page of the city or county website. This provision only applies to ORVs and not four-wheel ATVs.

The amended bill provides definitions for direct supervision, emergency management, and primitive roads.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect on March 1, 2013.

Staff Summary of Public Testimony:

(In support) The intent is limited use and starting slowly to allow citizens and law enforcement to get used to having four-wheel ATVs on the roadways. The bill is not perfect; there are a couple of technical amendments that need to be made on the floor, for example, having license plates for all four-wheel ATVs so that if a person does damage to the environment, the person can be identified and law enforcement can contact the individual. The bill has been worked on by many stakeholder groups that have come together to now

support this bill. Off-road users, conservationists, and property managers have all worked together and support the bill.

Over 10 other states have a law like this that allows four-wheel ATVs on low mileage roadways. Those states include Idaho, Montana, and Nevada. Many people go to those states to recreate on these vehicles for that reason.

This will provide a needed economic boost to several struggling areas in Washington and provide additional designated riding areas, along with bringing people to Washington for recreational purposes. In talking with the other states that allow the ATVs on low-speed roadways, those states have had no issues.

The requirement for ATVs having license plates and the ability to turn that information into law enforcement if a person witnesses destruction of forest lands, habitats, or other areas which are both private and public, will really help regulate this recreation activity.

The bill requires that these vehicles must follow the laws for motorcycles which includes wearing a United States Department of Transportation-approved helmet.

(In support with concerns) Conservation groups appreciate the work by all of the stakeholder groups and legislative members and support the bill. It is recommended the bill be narrowed. It is also recommended that these vehicles have license plates to identify people that do not follow the rules. This is especially of great benefit to land managers. This bill is proof that everybody has worked together. People need to make the mind shift to ride the vehicles responsibly and legally. This is of great economic benefit to communities and the ORV industry. Fish habitats are costly and conservation groups would like to see restrictions in those areas. The bill needs to be clearer that trespassing on off-limit property will not be tolerated.

(With concerns) Stakeholders would like to see more work done on section 16, beginning on line 17, concerning the land management requirements. Some areas are already open, so section 16 could confuse the situation. The forests and wildlife need to be protected. The striking amendment is a great step forward and it helps to regulate ORV usage.

Law enforcement cannot support placing vehicles on roadways that are not manufactured for that use. Sixteen or 17-year-olds could be riding these vehicles to school and could replace some commuting vehicles for people going to work. If a person is under the age of 16, even with a person supervising that person, the person under age 16 is allowed to cross paved roadways, which will place the ATVs on the road with motor vehicles. Law enforcement appreciates the intent, but has concerns with the lack of safety equipment and enforcement issues. The majority of the riders are professional riders who will follow the rules and be safe. The concern is people that do not follow rules and end up in or causing accidents.

(Opposed) None.

Persons Testifying: (In support) Senator Delvin, prime sponsor; Ted Jackson and Carolyn Eslick, City of Sultan; Jeff Brand, Snohomish County Sheriff's Office; Gary Prewitt, Eastern

Washington All-Terrain Vehicle Association; Larry Smith and Gary Johnson, Cowlitz Basin Off-Road Vehicle Club; and Patti Case, Green Diamond Resource Company.

(In support with concerns) Chris Eades, Hancock Forestry Management; Mitch Friedman, Conservation Northwest; and Gregg Bafundo and Paul Sparks, Washington Council of Trout Unlimited.

(With concerns) Neil Beaver, The Lands Council; Jason Berry, Washington State Patrol; Jakob Perry; Patrick Halstead, Northwest Motorcycle Association and Washington State Motor Sports Dealers; and Kevin McGrath, Washington Off-Highway Vehicle Alliance.

Persons Signed In To Testify But Not Testifying: None.