

# SENATE BILL REPORT

## ESSB 5366

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As Reported by Senate Committee On:  
Transportation, January 31, 2012

**Title:** An act relating to authorizing the use of off-road vehicles on public roadways under certain conditions or in certain areas.

**Brief Description:** Authorizing the use of off-road vehicles on public roadways under certain conditions or in certain areas.

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

**Brief History:**

**Committee Activity:** Transportation: 1/26/11, 2/02/11 [DPS, DNP]; 1/23/12, 1/31/12 [DP2S].

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### SENATE COMMITTEE ON TRANSPORTATION

**Majority Report:** That Second Substitute Senate Bill No. 5366 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Haugen, Chair; Eide, Vice Chair; King, Ranking Minority Member; Fain, Assistant Ranking Minority Member; Delvin, Ericksen, Hill, Hobbs, Litzow, Ranker and Swecker.

**Staff:** Kim Johnson (786-7472)

**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 non-highway 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 non-highway 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 off-road vehicles. The legislative body of a county may by ordinance designate a road or highway within its boundaries to be suitable for use by off-road vehicles if the road or

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highway is a direct connection between a city with a population of less than 3,000 people and an off-road facility.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (Recommended Second Substitute):** Four-wheel ATV is defined 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 1500 pounds, and has tires having a diameter of 30 inches or less.

A person may operate a four-wheel ATV upon a any roadway having a speed limit of 35 miles per hour (mph) or less, provided the person and the ATV meet certain specified operational requirements, including but not limited to:

- the person does not operate the vehicle upon state highways listed in chapter 47.17 RCW, however a person may operate an ATV upon a segment of a state highway if the segment is within the boundaries of a city and the speed limit is 35 mph or less;
- a person operating an ATV may cross a road with a speed limit greater than 35 mph, if the crossing begins and ends on a road or ORV trail with a speed limit of 35 mph or less and the crossing occurs at an intersection of approximately 90 degrees; however the operator of an ATV may not cross a public highway that is listed in 47.17 RCW;
- the person does not operate the ATV within a city with a population of 15,000 or more unless the city has adopted an ordinance approving the operation of ATVs on city roadways.
- the person has obtained a current and proper registration, displays a license plate and has paid the annual vehicle license fee of \$30;
- the person has a valid Washington driver license or a valid driver license issued by the state of the person's residence;
- the person must be insured under a motor vehicle liability policy; and,
- the ATV has a headlight, tail light, brake light, reflectors, turn signals, a mirror on both the left and right handlebar, a windshield (if the operator does not wear glasses, goggles or a face shield), a horn, spark arrestor, muffling device, brakes and fenders.

A person that violates any of these requirements commits a traffic infraction.

A city with a population of 15,000 or less may adopt an ordinance designating a city street as unsuitable for ATV use.

A person must certify under oath to the Department of Licensing that the required equipment has been installed on the ATV and that the equipment is operable. A person who makes a false statement regarding the installation of the equipment is guilty of a false swearing, a gross misdemeanor.

The multi-use roadway safety account is created within the motor vehicle account. All revenue from the annual license fee from ATVs must be deposited into the account and appropriated to the Department of Transportation for grants to counties for safety engineering analysis of mixed vehicle use on roadways within a county and to local governments for the purpose of erecting signs notifying the motoring public that ATVs are present.

Off-Road Vehicles. Counties with a population of less than 5,000 persons may by ordinance designate a street, road, or highway within its boundaries to be suitable for use by ORVs. The power to designate a road or highway within the boundary of a county to be suitable for use by an ORV if the road or highway is a direct connection between a city with a population of fewer than 3000 persons and an ORV recreation facility is limited to counties with a population of more than 5000 persons. However, four-wheel ATVs are not considered an ORV for purposes of a local authority's power to regulate use of ORVs on roadways within the local jurisdiction.

It is a misdemeanor with a penalty of \$500 for a person to operate a nonhighway vehicle on public lands unless the area is designated by the land manager as open for nonhighway vehicle use.

**EFFECT OF CHANGES MADE BY TRANSPORTATION COMMITTEE  
(Recommended Second Substitute as Passed Committee):**

- The authority for a local government to allow ORVs on a state highway in order to traverse a manmade or natural obstacle is removed.
- The equipment requirements are modified including the addition of spark arrestors and muffling devices. ATVs are expressly subject to towing and impound laws.
- The size of a city that must adopt an ordinance in order to allow ATV use of city streets is reduced from 25,000 to 15,000. Cities with a population of less than 15,000 may adopt an ordinance designating city streets that are unsuitable for ATV use.
- Funds in the multiuse roadway safety account may also be used by local governments to erect signs providing notice that ATVs are present and the grant program is moved from the County Road Administration Board to the Department of Transportation.
- A person operating an ATV may cross a road with a speed limit greater than 35 mph, if the crossing begins and ends on an ORV trail and occurs at an intersection of approximately 90 degrees.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill takes effect on March 1, 2013.

**Staff Summary of Public Testimony as Heard in Committee:** PRO: This bill is a huge step in the right direction. This bill will help rural communities enhance recreational economic development related to ATV enthusiasts. The licensing of these vehicles is critical from both a public safety standpoint, but also to help to identify those people who break the law both on and off road. This bill provides a tool for law enforcement to catch and prosecute persons who are riding where they should not be. I have been riding most of my life and have worked with people all over the state on this bill. It is a good bill. Use is limited to streets, roads and highways under 35 miles per hour; it is safe. This bill will also force the forest service to open up hundreds of miles of roads that have been closed to ATV use for many years. This is about liberty.

OTHER: We strongly supported the bill last year, but have some concerns with this year's version. There are some penalties in this bill that may be problematic. We think you should add back in 2 wheelers.

The WSP continues to have concerns about the safety of mixing ATVs and general traffic. These vehicles already are responsible for deaths on public roadways and they are not even allowed to be operated on public roads at this time. This will open up the roads and will likely lead to chaos. The provisions regarding local government authority to open public roads to all ORVs is unclear as it relates to ATVs licensed under this bill. This will lead to confusion for law enforcement and the public as to where an ATV can legally be operated. You will be sacrificing safety if you adopt this bill.

**Persons Testifying:** PRO: Gregg Bafundo, Trout Unlimited; Ted Jackson, Sultan; Gary Johnson, Gifford Pinchot Off-Highway Vehicle Assn.

OTHER: Kevin McGrath Washington Off-Highway Vehicle Alliance; Jason Berry, WSP; Steve Lind, WA Traffic Safety Commission; Pat Halstead, NW Motorcycle Assn.