

# FINAL BILL REPORT

## ESHB 1632

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Synopsis as Enacted

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

**Sponsors:** House Committee on Transportation (originally sponsored by Representatives Shea, Blake, Kristiansen, Sells, Warnick, Upthegrove, Wilcox, Scott, Moscoso, Fagan and Condotta).

### House Committee on Transportation

#### Background:

Off-road vehicles (ORVs) are labeled by the manufacturer's statement or certificate of origin as intended for "off-road use." The ORVs must display a current ORV tag that is purchased for \$18. The Department of Licensing (DOL) issues the registrations and temporary-use permits for ORVs and issues the ORV decals for a fee that covers the actual cost of the decal. The DOL retains funds sufficient to cover expenses incurred in the administration of the ORV fee; the remaining funds are distributed for off-road recreational facilities.

Any out-of-state operator of an ORV, when operating an ORV in Washington, must have the ORV registered in the state of the operator's residence or obtain a temporary ORV-use permit. A person must be 13 years of age or older to operate an ORV. A person under 13 years old may operate an ORV under the direct supervision of a person 18 years or older who possesses a valid driver's license.

It is lawful to operate an ORV on a non-highway road if the state, federal, local, or private authority responsible for the management of the non-highway road authorizes the use of ORVs on that road.

If a person operating an ORV is in violation of one of the operator-behavior or equipment-requirement items listed in the ORV statutes, the fine is a traffic infraction. These infractions are treated in the same manner as any other motor vehicle traffic infraction.

A person may operate an off-road motorcycle (not including wheeled all-terrain vehicles) upon a public road, street, or highway if the person complies with the following requirements:

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- files a motorcycle-use declaration, in which the DOL certifies conformance with all applicable federal motor vehicle safety standards and state standards;
- obtains and has in full force and effect a current and proper ORV registration or temporary ORV-use permit;
- obtains a valid driver's license and motorcycle endorsement issued to Washington residents; and
- installs various outlined motorcycle components, if not already present on the off-road motorcycle, which include a head lamp, a tail lamp, reflectors, brakes, a mirror on both the left and right handlebars, a windshield (unless the operator is wearing eye protection), a horn or warning device, turn signals, tires, and fenders.

The off-road motorcycle must be inspected by a Washington motorcycle repair shop or motorcycle dealer who must certify that it meets the equipment requirements.

The owner of the off-road motorcycle must sign a release that releases Washington from any liability.

Any city, county, or other political subdivision of Washington, or any state agency, may regulate the operation of non-highway vehicles on public lands, waters, and other properties under its jurisdiction, and on streets, roads, or highways within its boundaries, by adopting regulations or ordinances, provided such regulations are not less stringent than state laws.

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 and an ORV recreation facility.

### **Summary:**

#### Wheeled All-terrain Vehicles.

The Legislature intends to standardize ORV rules, open up certain roadways to wheeled all-terrain vehicles, and stimulate economic activity.

Definitions are provided for "primitive road," "direct supervision," "emergency management," and "wheeled all-terrain vehicle."

A number of rules regarding the registration of wheeled all-terrain vehicles are provided. The operator of *every* wheeled all-terrain vehicle operated within this state (unless exempt) must obtain a metal tag from the DOL for \$18 and display that metal tag on the rear of the vehicle along with an off-road tab in the bottom left corner. For wheeled all-terrain vehicles *operated upon public roadways*, the operator must also have a proper vehicle registration, pay the annual license fee of \$30, and display a bright colored decal in the bottom right corner of the tag indicating the vehicle is road legal. For wheeled all-terrain vehicles *operated off-road only*, the operator must have a proper ORV registration (\$18) or temporary use permit.

#### *Cost Breakdown.*

The operator of *every* wheeled all-terrain vehicle must pay a one-time cost of \$18 for the metal tag plus:

- an annual cost to operate off-road of \$18 for registration or \$10.75 for a temporary use permit. The revenue is deposited into the Non-highway and Off-road Vehicle Activities Program Account; and
- an annual cost to operate on public roadways, which is \$12 for a "road legal decal" plus an \$18 licensing fee, equaling \$30. The \$12 is deposited into the newly-created Multiuse Roadway Safety Account and the \$18 is deposited into the Non-highway and Off-road Vehicle Activities Program Account.

The metal tag must be replaced every seven years at a cost of \$2 and the revenue is deposited into the Non-highway and Off-road Vehicle Activities Program Account.

The DOL must issue metal tags and registrations for wheeled all-terrain vehicles. The DOL must design the metal tag, which must be the same size as a motorcycle license plate.

A wheeled all-terrain vehicle may not be registered for commercial use.

A person must have a valid driver's license to operate a wheeled all-terrain vehicle on a public roadway. A person who operates a wheeled all-terrain vehicle must follow the motorcycle rules except that wheeled all-terrain vehicles may not be operated side by side in a single lane of traffic. A violation of these requirements is a traffic infraction.

The DOL may develop and implement, along with rules, an online training course for people who register wheeled all-terrain and utility-type vehicles for use on a public roadway. Any future costs associated with the training course must be appropriated from the Highway Safety Account and any fees collected must be deposited into the Highway Safety Account.

Wheeled all-terrain vehicles may operate on a public roadway, not including non-highway roads and trails, under the following conditions:

- in a county with a population of 15,000 or more if the county by ordinance has approved the operation of wheeled all-terrain vehicles on the county roadways;
- in a county with less than 15,000 in population unless the county has designated roadways or highways within its boundaries to be unsuitable for use by wheeled all-terrain vehicles; and
- in a city or town providing that the city or town by ordinance has approved the operation of wheeled all-terrain vehicles on city or town roadways.

This provision does not affect any roadway designated as open or closed as of January 1, 2013.

City, town or county roadways authorized or deemed unsuitable for use by wheeled all-terrain vehicles must be listed publicly and made accessible from the county, city, or town's webpage.

Any person who operates on a public roadway in violation of the rules above commits a traffic infraction. Accidents must be recorded and tracked in a separate category.

Local authorities may not establish additional requirements for registration of wheeled all-terrain vehicles.

A person may operate a wheeled all-terrain vehicle on a public roadway, trail, non-highway road, or highway in the state while under the authority or direction of an appropriate emergency management agency.

A wheeled all-terrain vehicle is an ORV for the purposes of the recreational immunity statutes.

Equipment requirements for a wheeled all-terrain vehicle include: (1) headlights; (2) one tail lamp, except that utility-type vehicles must have two tail lamps; (3) a stop lamp; (4) reflectors; (5) turn signals if operating during hours of darkness; (6) a mirror attached to either the right or left handlebar, except that a utility-type vehicle must have two mirrors; (7) a windshield (unless the operator is wearing eye protection); (8) a horn or warning device; (9) brakes in working order; (10) a spark arrestor and muffler; and (11) seatbelts for utility-type vehicles. The equipment requirements do not apply to emergency service vehicles or vehicles used for agricultural or timber products.

A person who operates a wheeled all-terrain vehicle upon a roadway must provide a declaration that includes the following:

- documentation of a safety inspection to be completed by a licensed wheeled all-terrain vehicle dealer or repair shop that certifies under oath that all wheeled all-terrain vehicle required equipment is installed. A person who makes a false statement regarding an equipment inspection commits a gross misdemeanor;
- documentation that the dealer or repair shop did not charge more than \$50 for the inspection; and
- a signed release that releases Washington from any liability.

The DOL must track wheeled all-terrain vehicles in a separate registration category for reporting purposes.

A person who operates a wheeled all-terrain vehicle in violation of specified operating rules or inconsistent with the emergency exemption is subject to a traffic infraction. Any law enforcement officer may issue a traffic infraction whether or not the infraction was committed in the officer's presence, as long as there is reasonable evidence that the operator committed a violation.

The Multi-Use Roadway Safety Account is created. The \$30 registration fee for wheeled all-terrain vehicles used on public roadways must be deposited into this account. Funds from this account may be spent on: (1) safety engineering analysis; (2) signs to alert the motoring public that wheeled all-terrain vehicles may be present or crossing; or (3) law enforcement for purposes of defraying costs of enforcement involving wheeled all-terrain vehicles.

### Off-road Vehicles.

Rules regarding the operation of ORVs on public roads are modified. A wheeled all-terrain vehicle is not an ORV for purposes of these rules.

The ORV registration requirement does not apply to wheeled all-terrain vehicles registered for use on a public roadway.

The following vehicles are exempt from ORV registration and decal requirements: (1) ORVs operated on and across agricultural and timber lands; (2) ORVs used for emergency management; and (3) ORVs operated by persons rendering emergency assistance.

An ORV may operate on any trail, non-highway road, or highway while under the direction of emergency management, search and rescue, or law enforcement, within the scope of their official duties.

No person under 16 years of age may operate an ORV on or across a highway or non-highway road without direct supervision of a person 18 years or older possessing a valid driver license. This restriction does not apply to emergency management or while rendering emergency assistance. Persons under 16 years of age may operate an ORV across a highway if, at the crossing, signs indicate that wheeled all-terrain vehicles or ORVs may be crossing. These operator age requirements do not apply to vehicles used in the production of agricultural or timber products on and across lands owned, leased, or managed by the owner or operator of a wheeled all-terrain vehicle or the operator's employer.

An ORV operator is exempt from the helmet requirement when the ORV is used in the production of agricultural and timber products on and across lands owned, leased, or managed by the owner or operator's employer.

The purposes for which funds collected for off-road vehicle registrations may be spent are expanded to include projects and activities that benefit off-road vehicle recreation on publicly-owned lands.

### Administrative.

A \$12 initial and renewal fee for on-road use is established. The \$18 initial and renewal fee for ORVs is placed in the vehicle registration fee statutes.

A wheeled all-terrain vehicle is exempt from the requirement to obtain motor vehicle liability insurance.

The definition of a motor vehicle does not include wheeled all-terrain vehicles for purposes of regulating access to recreational lands.

Investment earnings from the Multi-Use Roadway Safety Account are retained in that account.

### **Votes on Final Passage:**

### Second Special Session

House 81 11  
Senate 39 5

**Effective:** July 28, 2013  
July 1, 2015 (Section 3)  
Contingent (Section 25)