

# SENATE BILL REPORT

## ESHB 1632

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As of Second Reading

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

**Brief History:** Passed House: 6/28/13, 81-11.

**Committee Activity:** Transportation:

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### SENATE COMMITTEE ON TRANSPORTATION

**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 3000 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 3000 people and an off-road facility.

ORVs currently pay an \$18 fee for an ORV decal.

**Summary of Bill:** A new class of recreational vehicles is created. A "wheeled all-terrain vehicle" (WATV) is defined as a non-highway vehicle with handlebars that are 50 inches or less in width; has a seat height of at least 20 inches; weighs less than 1500 pounds; and has four tires having a diameter of 30 inches or less; or a utility-type vehicle designed for, and capable of travel over, designated roads with four or more low pressure tires of 20 pounds per

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square inch (PSI) or less, a maximum width of less than 74 inches, a maximum weight less than 2000 pounds, a wheelbase of 110 inches or less, and that meets at least one of the following: a minimum width of 50 inches; a minimum weight of 900 pounds; or a wheelbase of over 61 inches.

WATVs operated in the state must display a metal tag on the rear of the vehicle. The initial metal tag must be issued with an original ORV registration. The metal tag must be replaced every seven years at a cost of \$2 to be deposited into the Nonhighway and Off-Road Vehicle Activities Program Account (NOVA Account). The operator must have a current ORV registration tab and, in addition, have paid the annual vehicle license fee for the off-road use. A person that wants to operate a WATV on a public roadway must register the WATV for on-road use. The on-road tab must be a bright color and can be seen from a reasonable distance. The annual on-road registration fee is \$12 and is deposited into the Multiuse Roadway Safety Account (Multiuse Account). Funds in the account must be used to erect signs related to WATV use of the roadway, to defer law enforcement related WATV costs, and to counties to conduct mixed roadway use analysis.

A WATV registered for on-road use must have a list of equipment installed on the vehicle.

A person operating a WATV, must possess a declaration that includes:

- documentation of a safety inspection to be completed by a licensed WATV dealer or repair shop in Washington and certified under oath that the equipment as required meets state and federal law (a person making a false statement regarding the inspection is guilty of false swearing, a gross misdemeanor);
- documentation that the dealer or repair shop did not charge more than \$50 per inspection;
- a statement that the dealer or repair shop is entitled to the full amount charged;
- a vehicle identification number verification; and
- a release signed by the owner of the WATV that releases the state from any liability.

Certain exemptions are provided for on-road WATV operation for emergency management purposes and uses involved in the production of agriculture and timber products.

A person operating a WATV on-road must possess a valid driver's license, however the person is not required to have motor vehicle insurance.

In counties with a population of 15,000 or less, public roads with a speed limit of 35 mph or less are automatically open to WATV use, but the county may by ordinance designate roads that are unsuitable for WATV use. All counties with a population of 15,000 or more and cities and towns may by ordinance approve the operation of WATVs on public roadways with a speed limit of 35 mph or less. However, county, city and town ordinances opening or closing roads to WATV use do not apply to any roadway designated as open or closed as of January 1, 2013. A city, town, or county must post those roads not suitable for WATV use publically on the main page of the city's, town's, or county's website.

The authority of a county to authorize ORV use on public roadways in counties is broadened to apply to any county.

A person operating a WATV may not:

- ride on state highways, except on a segment that is within the limits of a city or town and the speed limit is 35 miles per hour or less;
- cross a public roadway in excess of 35 miles per hour unless the crossing begins and ends on a public roadway with a speed limit of 35 miles per hour or less and the intersection is 90 degrees; or
- cross at an uncontrolled intersection of a state highway.

The motor vehicle code is amended to state that for purposes of the recreational immunity statute a private landowner that charges a fee of \$20 or less for ORV park use is immune from liability for injuries resulting from the use of the private lands.

The Department of Licensing may develop and implement along with rules an online training course for people that 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 to the Highway Safety Account.

The ORV statutes are amended to provide definitions of "primitive road", "direct supervision" and "emergency management." Various exemptions are provided from the laws governing ORV use when the ORV is being used for emergency management purposes. The exemption for wearing a helmet while using an ORV on agricultural lands is broadened to include use in the production of agricultural and timber products.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on June 29, 2013.

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

**Effective Date:** The bill contains several effective dates. Please refer to the bill.