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**SUBSTITUTE HOUSE BILL 2723**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** House Transportation (originally sponsored by Representative Wylie)

AN ACT Relating to off-road vehicle and snowmobile registration enforcement; amending RCW 46.09.420, 46.09.442, 46.93.210, 46.09.495, and 46.10.505; creating a new section; prescribing penalties; and providing an expiration date.

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

**Sec.**  RCW 46.09.420 and 2013 2nd sp.s. c 23 s 14 are each amended to read as follows:

ORV registrations and decals are required under this chapter except for the following:

(1) Off-road vehicles owned and operated by the United States, another state, or a political subdivision of the United States or another state.

(2) Off-road vehicles owned and operated by this state, a municipality, or a political subdivision of this state or the municipality.

(3) Off-road vehicles operated on and across agricultural and timberlands owned, leased, or managed by the off-road vehicle owner or operator or operator's employer.

(4)(a) Off-road vehicles owned by a resident of another state that have a valid ORV use permit or vehicle registration issued in accordance with the laws of the other state. This exemption applies only to the extent that a similar exemption or privilege is granted under the laws of that state.

(b) The exemption in (a) of this subsection does not apply to an off-road vehicle owned by a resident of a state that borders Washington and that does not impose a retail sales and use tax on the sales or use of off-road vehicles.

(5) Off-road vehicles while being used for emergency management purposes under the authority or direction of an appropriate agency that engages in emergency management, as defined in RCW 46.09.310, or search and rescue, as defined in RCW 38.52.010, or a law enforcement agency as defined in RCW 16.52.011.

(6) Vehicles registered under chapter 46.16A RCW or, in the case of nonresidents, vehicles validly registered for operation over public highways in the jurisdiction of the owner's residence.

(7) Off‑road vehicles operated by persons who, in good faith, render emergency care or assistance with respect to an incident involving off‑road vehicles. Persons who operate off-road vehicles to render such care, assistance, or advice are not liable for civil damages resulting from any act or omission in the rendering of such care, assistance, or advice, other than acts or omissions constituting gross negligence or willful or wanton misconduct.

**Sec.**  RCW 46.09.442 and 2016 c 84 s 3 are each amended to read as follows:

(1) Any wheeled all-terrain vehicle operated within this state must display a metal tag to be affixed to the rear of the wheeled all-terrain vehicle. The initial metal tag must be issued with an original off-road vehicle registration and upon payment of the initial vehicle license fee under RCW 46.17.350(1)(s). The metal tag must be replaced every seven years at a cost of two dollars. Revenue from replacement metal tags must be deposited into the nonhighway and off-road vehicle activities program account. The department must design the metal tag, which must:

(a) Be the same size as a motorcycle license plate;

(b) Have the words "RESTRICTED VEHICLE" listed at the top of the tag;

(c) Contain designated identification through a combination of letters and numbers;

(d) Leave space at the bottom left corner of the tag for an off-road tab issued under subsection (2) of this section; and

(e) Leave space at the bottom right corner of the tag for an on-road tab, when required, issued under subsection (3) of this section.

(2) Except as provided in subsection (6)(b) of this section, a person who operates a wheeled all-terrain vehicle must have a current and proper off-road vehicle registration, with the appropriate off-road tab, and pay the annual vehicle license fee as provided in RCW 46.17.350(1)(s), which must be deposited into the nonhighway and off-road vehicle activities program account. The off-road tab must be issued annually by the department upon payment of initial and renewal vehicle license fees under RCW 46.17.350(1)(s).

(3) Except as provided in subsection (6)(a) of this section, a person who operates a wheeled all-terrain vehicle upon a public roadway must have a current and proper on-road vehicle registration, with the appropriate on-road tab, which must be of a bright color that can be seen from a reasonable distance, and pay the annual vehicle license fee as provided in RCW 46.17.350(1)(r). The on-road tab must be issued annually by the department upon payment of initial and renewal vehicle license fees under RCW 46.17.350(1)(r).

(4) Beginning July 1, 2017, for purposes of subsection (3) of this section, a special year tab issued pursuant to chapter 46.19 RCW to a person with a disability may be displayed on a wheeled all-terrain vehicle in lieu of an on-road tab.

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

(6)(a) A wheeled all-terrain vehicle registration and a metal tag are not required under this chapter for a wheeled all-terrain vehicle that meets the definition in RCW 46.09.310(19), is owned by a resident of another state, and has a vehicle registration and metal tag or license plate issued in accordance with the laws of the other state allowing for on-road travel in that state. This exemption applies only to the extent that: (i) A similar exemption or privilege is granted under the laws of that state for wheeled all-terrain vehicles registered in Washington, and (ii) the other state has equipment requirements for on-road use that meet or exceed the requirements listed in RCW 46.09.457. The department may publish on its web site a list of states that meet the exemption requirements under this subsection. The exemption in this subsection does not apply to a wheeled all-terrain vehicle owned by a resident of a state that borders Washington and that does not impose a retail sales and use tax on the sales or use of wheeled all-terrain vehicles.

(b) Off-road operation in Washington state of a wheeled all-terrain vehicle owned by a resident of another state and meeting the definition in RCW 46.09.310(19) is governed ((~~by~~)) in the same manner as for other off-road vehicles under RCW 46.09.420(4).

**Sec.**  RCW 46.93.210 and 2017 c 218 s 4 are each amended to read as follows:

(1) By the first business day in February of each year, beginning in 2018, motorsports vehicle manufacturers must report to the department of licensing a listing of all motorsports vehicle warranties for off-road vehicles under chapter 46.09 RCW and snowmobiles under chapter 46.10 RCW sold to Washington residents by out-of-state motorsports vehicle dealers in the previous calendar year. The report must be transmitted such that the department receives the listing no later than the first business day in February. Failure to report a complete listing as required under this subsection results in an administrative fine of one hundred dollars for each day after the first business day in February that the department has not received the report.

(2) The department of licensing shall examine the listing reported in subsection (1) of this section to verify whether the vehicles are properly registered in the state and shall transmit the results of its analysis to the department of revenue. Beginning in 2018, and to the extent that it has received the listing required under subsection (1) of this section, the department and the department of revenue shall jointly notify by certified mail from the United States postal service, with return receipt requested, by the end of February of each year, the purchasers of the warranties of the off-road vehicles and snowmobiles that are not properly registered in the state of the owner's obligations under state law regarding vehicle titling, registration, and use tax payment, as well as of the penalties for failure to comply with the law.

(3) Fines received under this section must be paid into the state treasury and credited to the nonhighway and off-road vehicle activities program account under RCW 46.09.510 and to the snowmobile account under RCW 46.68.350. The state treasurer must apportion the fines between the accounts according to the pro rata share of the number of off-road vehicle and snowmobile registrations in the previous calendar year. The department must provide the state treasurer with the information needed to determine the apportionment.

**Sec.**  RCW 46.09.495 and 2017 c 218 s 2 are each amended to read as follows:

(1) It is a gross misdemeanor, punishable as provided under chapter 9A.20 RCW, for a resident, as identified in RCW 46.16A.140, to ((~~knowingly~~)):

(a) Knowingly fail to apply for a Washington state certificate of title for, or to knowingly fail to register, an off-road vehicle within fifteen days of receiving or refusing a notice issued by the department under RCW 46.93.210; or

(b) Register an off-road vehicle in another state to avoid retail sales and use taxes under chapters 82.08 and 82.12 RCW.

(2) For a second or subsequent offense, the person convicted is also subject to a fine equal to four times the amount of avoided taxes and fees, which may not be suspended, except as provided in RCW 10.05.180.

(3) Excise taxes owed and fines assessed must be deposited in the manner provided under RCW 46.16A.030(6).

**Sec.**  RCW 46.10.505 and 2017 c 218 s 3 are each amended to read as follows:

(1) It is a gross misdemeanor, punishable as provided under chapter 9A.20 RCW, for a resident, as identified in RCW 46.16A.140, to ((~~knowingly~~)):

(a) Knowingly fail to register a snowmobile within fifteen days of receiving or refusing a notice issued by the department under RCW 46.93.210; or

(b) Register a snowmobile in another state to avoid retail sales and use taxes under chapters 82.08 and 82.12 RCW.

(2) For a second or subsequent offense, the person convicted is also subject to a fine equal to four times the amount of avoided taxes and fees, which may not be suspended, except as provided in RCW 10.05.180.

(3) Excise taxes owed and fines assessed must be deposited in the manner provided under RCW 46.16A.030(6).

NEW SECTION. **Sec.**  (1) By December 15, 2021, the department of licensing shall report to the governor and the transportation committees of the legislature on the effectiveness of this act and of chapter 218, Laws of 2017, in improving compliance with state laws relating to the registration of off-road vehicles and snowmobiles. The department may collaborate with the departments of revenue and natural resources in its analysis and findings.

(2) This section expires June 30, 2023.

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