

SHB 1028 - S AMD TO TRAN COMM AMD (S-3721.1/19) **589**
By Senator Van De Wege

NOT CONSIDERED 12/23/2019

1 On page 2, at the beginning of line 35, strike "82.14.370" and
2 insert "46.09.310"

3 On page 2, line 37, after "hour." insert "A county legislative
4 body that adopts an ordinance under the authority provided in this
5 subsection (2) retains the authority to modify and enforce such
6 ordinance, even if the population density of the county subsequently
7 exceeds the limit identified in the definition of a rural county in
8 RCW 46.09.310."

9 On page 3, after line 9, insert the following:

10 "**Sec. 2.** RCW 46.09.310 and 2013 2nd sp.s. c 23 s 3 are each
11 reenacted and amended to read as follows:

12 The definitions in this section apply throughout this chapter
13 unless the context clearly requires otherwise.

14 (1) "Advisory committee" means the nonhighway and off-road
15 vehicle activities advisory committee established in RCW 46.09.340.

16 (2) "Board" means the recreation and conservation funding board
17 established in RCW 79A.25.110.

18 (3) "Dealer" means a person, partnership, association, or
19 corporation engaged in the business of selling off-road vehicles at
20 wholesale or retail in this state.

21 (4) "Direct supervision" means that the supervising adult must be
22 in a position, on another wheeled all-terrain vehicle or specialty
23 off-highway vehicle or motorbike or, if on the ground, within a
24 reasonable distance of the unlicensed operator, to provide close
25 support, assistance, or direction to the unlicensed operator.

26 (5) "Emergency management" means the carrying out of emergency
27 functions related to responding and recovering from emergencies and
28 disasters, and to aid victims suffering from injury or damage,
29 resulting from disasters caused by all hazards, whether natural,
30 technological, or human caused, and to provide support for search and
31 rescue operations for persons and property in distress.

1 (6) "Highway," for the purpose of this chapter only, means the
2 entire width between the boundary lines of every roadway publicly
3 maintained by the state department of transportation or any county or
4 city with funding from the motor vehicle fund. A highway is generally
5 capable of travel by a conventional two-wheel drive passenger
6 automobile during most of the year and in use by such vehicles.

7 (7) "Nonhighway road" means any road owned or managed by a public
8 agency, a primitive road, or any private road for which the owner has
9 granted an easement for public use for which appropriations from the
10 motor vehicle fund were not used for (a) original construction or
11 reconstruction in the last twenty-five years; or (b) maintenance in
12 the last four years.

13 (8) "Nonhighway road recreation facilities" means recreational
14 facilities that are adjacent to, or accessed by, a nonhighway road
15 and intended primarily for nonhighway road recreational users.

16 (9) "Nonhighway road recreational user" means a person whose
17 purpose for consuming fuel on a nonhighway road or off-road is
18 primarily for nonhighway road recreational purposes, including, but
19 not limited to, hunting, fishing, camping, sightseeing, wildlife
20 viewing, picnicking, driving for pleasure, kayaking/canoeing, and
21 gathering berries, firewood, mushrooms, and other natural products.

22 (10) "Nonhighway vehicle" means any motorized vehicle including
23 an ORV when used for recreational purposes on nonhighway roads,
24 trails, or a variety of other natural terrain.

25 Nonhighway vehicle does not include:

26 (a) Any vehicle designed primarily for travel on, over, or in the
27 water;

28 (b) Snowmobiles or any military vehicles; or

29 (c) Any vehicle eligible for a motor vehicle fuel tax exemption
30 or rebate under chapter 82.38 RCW while an exemption or rebate is
31 claimed. This exemption includes but is not limited to farm,
32 construction, and logging vehicles.

33 (11) "Nonmotorized recreational facilities" means recreational
34 trails and facilities that are adjacent to, or accessed by, a
35 nonhighway road and intended primarily for nonmotorized recreational
36 users.

37 (12) "Nonmotorized recreational user" means a person whose
38 purpose for consuming fuel on a nonhighway road or off-road is
39 primarily for nonmotorized recreational purposes including, but not
40 limited to, walking, hiking, backpacking, climbing, cross-country

1 skiing, snowshoeing, mountain biking, horseback riding, and pack
2 animal activities.

3 (13) "Organized competitive event" means any competition,
4 advertised in advance through written notice to organized clubs or
5 published in local newspapers, sponsored by recognized clubs, and
6 conducted at a predetermined time and place.

7 (14) "ORV recreation facilities" include, but are not limited to,
8 ORV trails, trailheads, campgrounds, ORV sports parks, and ORV use
9 areas, designated for ORV use by the managing authority.

10 (15) "ORV recreational user" means a person whose purpose for
11 consuming fuel on nonhighway roads or off-road is primarily for ORV
12 recreational purposes, including but not limited to riding an all-
13 terrain vehicle, motorcycling, or driving a four-wheel drive vehicle
14 or dune buggy.

15 (16) "ORV sports park" means a facility designed to accommodate
16 competitive ORV recreational uses including, but not limited to,
17 motocross racing, four-wheel drive competitions, and flat track
18 racing. Use of ORV sports parks can be competitive or noncompetitive
19 in nature.

20 (17) "ORV trail" means a multiple-use corridor designated by the
21 managing authority and maintained for recreational use by motorized
22 vehicles.

23 (18) "Primitive road" means a linear route managed for use by
24 four-wheel drive or high-clearance vehicles that is generally not
25 maintained or paved, a road designated by a county as primitive under
26 RCW 36.75.300, or a road designated by a city or town as primitive
27 under a local ordinance.

28 (19) "Rural county" means a county with a population density of
29 less than one hundred persons per square mile or a county smaller
30 than two hundred twenty-five square miles as determined by the office
31 of financial management and published each year by the department for
32 the period of July 1st to June 30th.

33 (20) "Wheeled all-terrain vehicle" means (a) any motorized
34 nonhighway vehicle with handlebars that is fifty inches or less in
35 width, has a seat height of at least twenty inches, weighs less than
36 one thousand five hundred pounds, and has four tires having a
37 diameter of thirty inches or less, or (b) a utility-type vehicle
38 designed for and capable of travel over designated roads that travels
39 on four or more low-pressure tires of twenty psi or less, has a
40 maximum width less than seventy-four inches, has a maximum weight

1 less than two thousand pounds, has a wheelbase of one hundred ten
2 inches or less, and satisfies at least one of the following: (i) Has
3 a minimum width of fifty inches; (ii) has a minimum weight of at
4 least nine hundred pounds; or (iii) has a wheelbase of over sixty-one
5 inches."

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6 On page 3, line 11, after "insert" strike all material through
7 "46.09.455" and insert "amending RCW 46.09.455; and reenacting and
8 amending RCW 46.09.310"

EFFECT: (1) Provides that a rural county that adopts an ordinance authorizing WATV use on any highway with a speed limit over 35 mph retains the authority to continue to enforce and modify the ordinance even if the county population density subsequently exceeds the limit provided in the definition of a rural county.

(2) Defines a "rural county" as a county with a population density of less than one hundred persons per square mile or a county smaller than 225 square miles.

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