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ENGROSSED SUBSTITUTE HOUSE BILL 2723

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State of Washington

66th Legislature

2020 Regular Session

By House Transportation (originally sponsored by Representative Wylie)

READ FIRST TIME 02/11/20.

1 AN ACT Relating to off-road vehicle and snowmobile registration  
2 enforcement; amending RCW 46.09.420, 46.09.400, 46.09.410, 46.09.442,  
3 46.93.210, 46.09.495, and 46.10.505; creating a new section;  
4 prescribing penalties; and providing an expiration date.

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

6 **Sec. 1.** RCW 46.09.420 and 2013 2nd sp.s. c 23 s 14 are each  
7 amended to read as follows:

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

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

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

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

19 (4) (a) Off-road vehicles owned by a resident of another state  
20 that have a valid ORV use permit or vehicle registration issued in  
21 accordance with the laws of the other state. This exemption applies

1 only to the extent that a similar exemption or privilege is granted  
2 under the laws of that state.

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

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

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

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

22 **Sec. 2.** RCW 46.09.400 and 2013 2nd sp.s. c 23 s 12 are each  
23 amended to read as follows:

24 The department shall:

25 (1) Issue registrations and temporary ORV use permits for  
26 off-road vehicles, excluding wheeled all-terrain vehicles subject to  
27 subsection (4) of this section;

28 (2) Issue decals for off-road vehicles, excluding wheeled all-  
29 terrain vehicles subject to subsection (4) of this section. The  
30 decals serve the same function as license plates for vehicles  
31 registered under chapter 46.16A RCW;

32 ~~(3) ((Charge))~~ (a) Except as provided in (b) of this subsection,  
33 charge a fee for each decal covering the actual cost of the decal;

34 (b) Charge no fee for the decal, if the vehicle is also properly  
35 registered or permitted in another state to a resident of the state,  
36 and, at the time of application for either an original Washington ORV  
37 registration or a renewal of a Washington ORV registration, the  
38 resident presents the following documents issued by the other state:

1 (i) The resident's unexpired driver's license; and (ii) the current  
2 registration or permit for the off-road vehicle; and

3 (4) Issue metal tags, off-road vehicle registrations, and on-road  
4 vehicle registrations for wheeled all-terrain vehicles.

5 **Sec. 3.** RCW 46.09.410 and 2013 2nd sp.s. c 23 s 13 are each  
6 amended to read as follows:

7 (1)(a) The application for an original ORV registration has the  
8 same requirements as described for original vehicle registrations in  
9 RCW 46.16A.040 and, except as provided in (b) of this subsection,  
10 must be accompanied by the annual off-road vehicle license fee  
11 required under RCW 46.17.350, in addition to any other fees or taxes  
12 due for the application.

13 (b) No fee is required with an application for an original ORV  
14 registration, if the vehicle is also properly registered or permitted  
15 in another state to a resident of the state, and, at the time of  
16 application for an original Washington ORV registration, the resident  
17 presents the following documents issued by the other state: (i) The  
18 resident's unexpired driver's license; and (ii) the current  
19 registration or permit for the off-road vehicle.

20 (2)(a) The application for renewal of an ORV registration has the  
21 same requirements as described for the renewal of vehicle  
22 registrations in RCW 46.16A.110 and, except as provided in (b) of  
23 this subsection, must be accompanied by the annual off-road vehicle  
24 license fee required under RCW 46.17.350, in addition to any other  
25 fees or taxes due for the application.

26 (b) No fee is required with an application for renewal of an ORV  
27 registration, if the vehicle is also properly registered or permitted  
28 in another state to a resident of the state, and, at the time of  
29 application for a renewal of a Washington ORV registration, the  
30 resident presents the following documents issued by the other state:  
31 (i) The resident's unexpired driver's license; and (ii) the current  
32 registration or permit for the off-road vehicle.

33 (3) The annual ORV registration is valid for one year and may be  
34 renewed each subsequent year as prescribed by the department.

35 (4) A person who acquires an off-road vehicle that has an ORV  
36 registration must:

37 (a) Apply to the department, county auditor or other agent, or  
38 subagent appointed by the director for a transfer of the ORV

1 registration within fifteen days of taking possession of the off-road  
2 vehicle; and

3 (b) Pay the ORV registration transfer fee required under RCW  
4 46.17.410, in addition to any other fees or taxes due at the time of  
5 application.

6 (5) The department shall issue an ORV registration, decals, and  
7 tabs upon receipt of:

8 (a) A properly completed application for an original ORV  
9 registration; and

10 (b) The payment of all fees and taxes due at the time of  
11 application.

12 (6) The ORV registration must be carried on the vehicle for which  
13 it was issued at all times during its operation in this state.

14 (7) Off-road vehicle decals must be affixed to the off-road  
15 vehicle in a manner prescribed by the department.

16 (8) Unless exempt under RCW 46.09.420, any out-of-state operator  
17 of an off-road vehicle, when operating in this state, must comply  
18 with this chapter. If an ORV registration is required under this  
19 chapter, the out-of-state operator must obtain an ORV registration  
20 and decal or a temporary ORV use permit.

21 (9) This section does not apply to wheeled all-terrain vehicles  
22 registered for use under RCW 46.09.442.

23 **Sec. 4.** RCW 46.09.442 and 2016 c 84 s 3 are each amended to read  
24 as follows:

25 (1) Any wheeled all-terrain vehicle operated within this state  
26 must display a metal tag to be affixed to the rear of the wheeled  
27 all-terrain vehicle. The initial metal tag must be issued with an  
28 original off-road vehicle registration and, except as provided in  
29 subsection (7) of this section, upon payment of the initial vehicle  
30 license fee under RCW 46.17.350(1)(s). The metal tag must be replaced  
31 every seven years at a cost of two dollars. Revenue from replacement  
32 metal tags must be deposited into the nonhighway and off-road vehicle  
33 activities program account. The department must design the metal tag,  
34 which must:

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

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

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

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

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

5 (2) Except as provided in (~~subsection~~) subsections (6)(b) and  
6 (7) of this section, a person who operates a wheeled all-terrain  
7 vehicle must have a current and proper off-road vehicle registration,  
8 with the appropriate off-road tab, and pay the annual vehicle license  
9 fee as provided in RCW 46.17.350(1)(s), which must be deposited into  
10 the nonhighway and off-road vehicle activities program account. The  
11 off-road tab must be issued annually by the department upon payment  
12 of initial and renewal vehicle license fees under RCW  
13 46.17.350(1)(s), except as provided in subsection (7) of this  
14 section.

15 (3) Except as provided in (~~subsection~~) subsections (6)(a) and  
16 (7) of this section, a person who operates a wheeled all-terrain  
17 vehicle upon a public roadway must have a current and proper on-road  
18 vehicle registration, with the appropriate on-road tab, which must be  
19 of a bright color that can be seen from a reasonable distance, and  
20 pay the annual vehicle license fee as provided in RCW  
21 46.17.350(1)(r). The on-road tab must be issued annually by the  
22 department upon payment of initial and renewal vehicle license fees  
23 under RCW 46.17.350(1)(r), except as provided in subsection (7) of  
24 this section.

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

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

31 (6)(a) A wheeled all-terrain vehicle registration and a metal tag  
32 are not required under this chapter for a wheeled all-terrain vehicle  
33 that meets the definition in RCW 46.09.310(19), is owned by a  
34 resident of another state, and has a vehicle registration and metal  
35 tag or license plate issued in accordance with the laws of the other  
36 state allowing for on-road travel in that state. This exemption  
37 applies only to the extent that: (i) A similar exemption or privilege  
38 is granted under the laws of that state for wheeled all-terrain  
39 vehicles registered in Washington, and (ii) the other state has  
40 equipment requirements for on-road use that meet or exceed the

1 requirements listed in RCW 46.09.457. The department may publish on  
2 its web site a list of states that meet the exemption requirements  
3 under this subsection. The exemption in this subsection does not  
4 apply to a wheeled all-terrain vehicle owned by a resident of a state  
5 that borders Washington and that does not impose a retail sales and  
6 use tax on the sales or use of wheeled all-terrain vehicles.

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

11 (7)(a) No fee is required with an application for an original ORV  
12 registration or the renewal of an ORV registration, if the vehicle is  
13 also properly registered or permitted in another state to a resident  
14 of the state, and, at the time of application, the resident presents  
15 the following documents issued by the other state: (i) The resident's  
16 unexpired driver's license; and (ii) the current registration or  
17 permit for the off-road vehicle.

18 (b) The department must issue a metal tag and either the off-road  
19 tag, on-road tag, or both, as appropriate, following the ORV  
20 registration under (a) of this subsection.

21 **Sec. 5.** RCW 46.93.210 and 2017 c 218 s 4 are each amended to  
22 read as follows:

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

35 (2) The department of licensing shall examine the listing  
36 reported in subsection (1) of this section to verify whether the  
37 vehicles are properly registered in the state and shall transmit the  
38 results of its analysis to the department of revenue. Beginning in  
39 2018, and to the extent that it has received the listing required

1 under subsection (1) of this section, the department and the  
2 department of revenue shall jointly notify by certified mail from the  
3 United States postal service, with return receipt requested, by the  
4 end of February of each year, the purchasers of the warranties of the  
5 off-road vehicles and snowmobiles that are not properly registered in  
6 the state of the owner's obligations under state law regarding  
7 vehicle titling, registration, and use tax payment, as well as of the  
8 penalties for failure to comply with the law.

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

17 **Sec. 6.** RCW 46.09.495 and 2017 c 218 s 2 are each amended to  
18 read as follows:

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

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

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

28 (2) For a second or subsequent offense, the person convicted is  
29 also subject to a fine equal to four times the amount of avoided  
30 taxes and fees, which may not be suspended, except as provided in RCW  
31 10.05.180.

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

34 **Sec. 7.** RCW 46.10.505 and 2017 c 218 s 3 are each amended to  
35 read as follows:

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

1       (a) Knowingly fail to register a snowmobile within fifteen days  
2 of receiving or refusing a notice issued by the department under RCW  
3 46.93.210; or

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

6       (2) For a second or subsequent offense, the person convicted is  
7 also subject to a fine equal to four times the amount of avoided  
8 taxes and fees, which may not be suspended, except as provided in RCW  
9 10.05.180.

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

12       NEW SECTION.   **Sec. 8.**   (1) By December 15, 2021, the department  
13 of licensing shall report to the governor and the transportation  
14 committees of the legislature on the effectiveness of this act and of  
15 chapter 218, Laws of 2017, in improving compliance with state laws  
16 relating to the registration of off-road vehicles and snowmobiles.  
17 The department may collaborate with the departments of revenue and  
18 natural resources in its analysis and findings.

19       (2) This section expires June 30, 2023.

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