

SENATE BILL REPORT

SHB 1322

As of March 16, 2021

Title: An act relating to off-road vehicle and snowmobile registration enforcement.

Brief Description: Addressing off-road vehicle and snowmobile registration enforcement.

Sponsors: House Committee on Transportation (originally sponsored by Representatives Wylie, Harris, Ortiz-Self and Eslick).

Brief History: Passed House: 3/2/21, 97-0.

Committee Activity: Transportation: 3/16/21.

Brief Summary of Bill

- Modifies the Washington off-road vehicle (ORV) registration and use reciprocity provision to exclude residents from a state that does not impose a sales and use tax on transactions involving ORVs.
- Allows a person that is a resident of another state to register an ORV in Washington without paying a fee, if the person presents an unexpired driver's license and a current ORV registration from the other state when registering.
- Requires the Department of Licensing and the Department of Revenue to jointly send out a letter to a Washington resident who purchased an ORV or snowmobile warranty in the preceding year, but has not registered the vehicle in Washington, notifying the owner of the obligation to register and of the penalty for failure to register.
- Establishes a gross misdemeanor for registering an ORV or a snowmobile in another state to avoid sales and use taxes and, for second and subsequent offenses, requires a fine equal to four times the amount of avoided taxes and fees.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

SENATE COMMITTEE ON TRANSPORTATION

Staff: Kimberly Johnson (786-7472)

Background: Off-Road Vehicle Reciprocity. An off-road vehicle (ORV) is a vehicle used for recreational purposes on nonhighway roads, trails, and other natural terrain. ORVs include all-terrain vehicles, certain motorcycles, dune buggies, and certain four-wheel drive vehicles. A wheeled all-terrain vehicle (WATV) is a specific category of an ORV that is regulated separately under some aspects of a state law first enacted in 2013.

The owner of an ORV that wishes to operate the vehicle in the state must first register the vehicle with the Department of Licensing (DOL) and pay a \$18 fee, along with any applicable taxes. An owner of a WATV must do the same, unless the owner also wants to register the vehicle for on-road travel, in which case the owner must pay an additional \$12. DOL will issue a decal to the owner of an ORV, and issue a metal tag and tab to the owner of a WATV. The decal or metal tag and tab serves the same function as a license plate for on-road vehicles within Washington and, for states that have reciprocal laws governing out-of-state ORVs, allows the owner to operate the vehicle in that state.

An out-of-state owner of an ORV, that is properly registered or permitted in another state, may operate the vehicle without registering it in Washington if the other state has a reciprocal law that allows out-of-state residents with properly registered or permitted vehicles to operate there without having to register.

Snowmobiles. Snowmobiles are self-propelled vehicles capable of traveling over snow and ice. Washington residents who purchase or bring snowmobiles into the state are not required to apply for a certificate of title. Like ORVs that are purchased without sales tax, use tax is due when the vehicle is acquired or first brought into the state.

An owner must register the vehicle with DOL before operating it and pay a \$50 fee. Upon receipt of payment, DOL will issue the applicant a decal, which must be affixed to the right or left side of the snowmobile below the windshield. The decal serves the same function as a license plate for on-road vehicles within Washington and, for states that have reciprocal laws governing out-of-state snowmobiles, allows the owner to operate the vehicle in that state.

Motorsport Vehicle Manufacturers. State law regulates the franchise relationship between motorsport vehicle manufacturers and dealers. A motorsport vehicle is an umbrella term that includes motorcycles, mopeds, motor-driven cycles, personal watercraft, snowmobiles, and four-wheeled all-terrain vehicles. Among the regulatory provisions are requirements concerning warranty work conducted by dealers and the manufacturers' responsibilities to compensate for such work.

Off-Road Vehicle and Snowmobile Registration Enforcement and Penalties. Since 2018,

motorsport vehicle manufacturers are required to report annually to DOL by the first business day in February a listing of all warranties for ORVs, including WATVs, and snowmobiles sold to Washington residents by out-of-state dealers in the previous calendar year. DOL must examine the warranties listing provided by motorsport vehicle manufacturers to verify whether the vehicles are properly registered. By the end of February of each year, DOL must notify the owner of the warranty of any ORV or snowmobile not properly registered under state law, as well as the penalties for failure to comply with the law.

The penalty for a resident that operates an ORV without proper registration is a traffic infraction, with a fine of at least \$25. The penalty for a resident that operates a snowmobile and fails to properly display the registration decal is a traffic infraction, with a fine of at least \$40. It is a gross misdemeanor to knowingly fail to register an ORV or a snowmobile, or to knowingly fail to apply for a certificate of title for an ORV, within 15 days of receiving or refusing a notice issued by DOL that the vehicle is not properly registered in the state.

Evaluation of Compliance with Off-Road Vehicle Registration Laws. The 2020 supplemental transportation budget included a proviso directing DOL to evaluate the effectiveness of recent legislation in improving compliance with state laws relating to ORV registration, including the payment of sales and use taxes. DOL found that over 60 percent of ORVs purchased out-of-state in 2019 and 2020 were not properly registered prior to DOL notification described above. Following DOL notification, owners of 29 percent of the ORVs not properly registered in 2019 then properly titled or registered the vehicles with DOL. In 2020, the figure was 11 percent.

In its evaluation, DOL recommended some changes to potentially facilitate administration and compliance. One was to remove the requirement for DOL to use certified mail to notify owners of vehicles not properly registered of the owner's requirements under law. DOL indicated the removal of the requirement will reduce costs without sacrificing the effectiveness of mailing. DOL also recommended that the law be changed to require DOL to notify the Department of Revenue (DOR) of owners who have not complied with tax and licensing requirements.

Summary of Bill: The reciprocity provision for ORV registration and use is modified to exclude residents from a state that borders Washington that does not impose a sales and use tax on ORVs. Any nonresident that registers an ORV in Washington is exempt from registration fees, if the nonresident presents an unexpired driver's license and a current ORV registration or permit from the other state at the time of registration in Washington.

After analyzing the warranties listing provided by motorsport vehicle manufacturers to verify whether ORVs and snowmobiles purchased by Washington residents in the preceding year are currently and properly registered, DOL must transmit its analysis results to DOR. DOL and DOR must jointly issue a letter notifying the owner of the warranty of any ORV

or snowmobile that is not properly registered of the owner's obligations under state law and of associated penalties.

It is a gross misdemeanor to register an ORV or a snowmobile in another state to avoid sales and use taxes. Persons convicted of the gross misdemeanor a second or subsequent time must pay a fine equal to four times the amount of avoided taxes and fees. With respect to the gross misdemeanor for knowingly failing to title or register an ORV, or for knowingly failing to register a snowmobile, within 15 days of receiving notification from DOL and DOR that a vehicle is not properly registered, a person convicted of a second or subsequent offense must pay a fine equal to four times the amount of avoided taxes and fees.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill takes effect on October 1, 2021.

Staff Summary of Public Testimony: PRO: The Governor should not have vetoed this bill last year. This bill will result in more revenue to the state. People will usually do the right thing and the letter required under this bill is a reminder or nudge in the right direction.

We appreciated the support last year and ask for it again this year. By eliminating reciprocity, our natural service agencies will regain control over the trails they manage. While this bill will help the state with the loss of sales and use tax when these vehicles are purchased and then registered in Oregon, we believe the motorsports dealership owners will recover over \$20 million dollars in sales in Washington. This is revenue that is desperately needed by small businesses throughout Washington.

OTHER: I wish to change my testimony to other and just ask, why have people been buying their vehicles in Oregon? It is because the tax structure of Washington is broken.

We have concerns of being asked to conduct no-fee transactions. We collect our fee on temporary snowmobile permits so this is not really different and we would ask the bill be amended to allow us to collect a fee for the transaction created in this bill.

Persons Testifying: PRO: Representative Sharon Wylie, Prime Sponsor; Grant Nelson, Washington State Motorsports Dealers Association; Jim Boltz, President, Washington State Motorsports Dealers Association.

OTHER: Jeff Pack; Joe DePinto, Washington Association of Vehicle Subagents; Anita Marcelo, Washington Association of Vehicle Subagents.

Persons Signed In To Testify But Not Testifying: No one.