

# SENATE BILL REPORT

## ESSB 5452

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As Amended by House, April 11, 2021

**Title:** An act relating to electric-assisted bicycles.

**Brief Description:** Concerning electric-assisted bicycles.

**Sponsors:** Senate Committee on Transportation (originally sponsored by Senators Cleveland, Lias and Wilson, J.).

**Brief History:**

**Committee Activity:** Transportation: 2/18/21, 2/22/21 [DPS].

**Floor Activity:** Passed Senate: 3/8/21, 46-3.

Passed House: 4/11/21, 82-16.

**Brief Summary of Engrossed First Substitute Bill**

- Directs the Washington Department of Fish and Wildlife and Department of Natural Resources to undergo a public process to collect information on e-bike use on natural surface trails and roads that are limited to non-motorized use to determine where e-bike operation may occur and which classes of e-bikes are acceptable on such trails and roads.
- Requires the public process at a minimum include input from a list of interested parties and user groups.
- Directs the agencies to report their findings to the Legislature by January 1, 2022.

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### SENATE COMMITTEE ON TRANSPORTATION

**Majority Report:** That Substitute Senate Bill No. 5452 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hobbs, Chair; Saldaña, Vice Chair; King, Ranking Member;

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*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.*

Cleveland, Das, Fortunato, Hawkins, Lovelett, Nguyen, Nobles, Padden, Randall, Sheldon, Wilson, C. and Wilson, J.

**Staff:** Kimberly Johnson (786-7472)

**Background:** Electric-assisted bicycle, or e-bike, means a bicycle with two or three wheels, a saddle, fully operative pedals for human propulsion, and an electric motor. The motor must have a power output of no more than 750 watts and the electric-assisted bicycle must meet the requirements of one of the three following classifications:

- class 1—in which the motor provides assistance only when the rider is pedaling and ceases to provide assistance when the bicycle reaches 20 mph;
- class 2—in which the motor may be used exclusively to propel the bicycle and is not capable of providing assistance when the bicycle reaches 20 mph; or
- class 3—in which the motor provides assistance only when the rider is pedaling and ceases to provide assistance when the bicycle reaches 28 mph and is equipped with a speedometer.

Persons under the age of 16 may not operate a class 3 e-bike. There is no age limit for the operation of class 1 and 2 e-bikes.

There are various restrictions on where the different classes of e-bikes may be operated, for example, all classes of e-bikes may be operated on a fully controlled limited access highway and class 1 and 2 e-bikes may be used on a sidewalk. Class 3 e-bikes may not be used on a sidewalk unless there is no alternative to travel over a sidewalk as part of a bicycle or pedestrian path.

Generally, a person may not operate an e-bike on a trail that is designated as non-motorized and that has a natural surface, unless otherwise authorized by the state agency or local authority having jurisdiction over the trail.

State Lands. Currently, the Parks and Recreation Commission is managing the use of e-bikes as a bicycle. The Department of Fish and Wildlife (WDFW) and the Department of Natural Resources (DNR) are managing e-bikes as motorized vehicles.

**Summary of Engrossed First Substitute Bill:** WDFW and DNR are directed to undergo a public process to collect information related to e-bike use on natural surface trails and roads that are limited to non-motorized use to determine where e-bike operation may occur and which classes of e-bikes are acceptable on such roads and trails under the agencies' management.

The public process must at a minimum include input from a list of interested parties and user groups. The agencies must report the findings to the Legislature by January 1, 2022.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: During the pandemic people have flocked to the outdoors to try to maintain our sanity. E-bikes make accessing outdoor recreational opportunities possible for people with mobility issues. My constituent is an avid outdoorsman and was in a bad accident that has left him limited in how he can still get outdoors. Using an e-bike is the only way he can still access many of the areas he wants to go. There are great inconsistencies which cause a lot of confusion about where these bikes can go.

I do not want to wait for the agencies to do studies. I will be 72 by the time they are done. I am asking to have access now. My e-bike does no more damage than a regular mountain bike. E-bikes are 75 pounds and are designed to be safe, slow, and stable. The average owner of an e-bike is 65. E-bikes, unlike horses, do not have a negative impact like leaving deposits on the trail leading to noxious weeds. This bill just gives e-bikes access to where regular bikes can go which makes sense.

CON: Land managers need to be able to make decisions about trail access and uses on a case by case basis. WDFW is responsible for managing wildlife and we do not know how much the footprint of these trails will expand with the use of e-bikes as they will allow people to get further into the back country. Class 3 e-bikes can travel up to 28 mph and we have heard from other non-motorized user groups with concern of the speed differential on trails and the safety impacts they may cause. The bill as drafted just opens up the trails instead of allowing land-managers to look at what the impacts to wildlife will be. Land-managers must be allowed to manage different uses thoughtfully. We do not support motorized use on non-motorized trails. We do not yet know what trail maintenance impacts these bikes will cause.

OTHER: Access decisions should be contact sensitive for all uses and the bill as drafted removes land manager discretion on what trails should be open to e-bikes. Applying the closure language to all bicycles can actually threaten access to traditional mountain bikes. We would like to see a separate and clear management process for e-bikes from regular bikes. While we agree that e-bikes will increase access for many and that is positive thing, we also hear concerns about safety impacts and unknown longer-term maintenance impacts to facilities. DNR is running an e-bike pilot project near Darrington, Washington to help inform on the best path forward for e-bike use on DNR lands. State Parks has concerns that the bill would not allow for a temporary closure if necessary to address safety or other concerns which hinders their management authority. State Parks would like to retain some discretion to manage e-bikes from regular bikes in the future.

**Persons Testifying:** PRO: Senator Annette Cleveland, Prime Sponsor; Bruce Barnes; Mark Smith.

CON: Joel Sisolak, Washington Department of Fish and Wildlife; Mitzi Schindele, Back Country Horsemen of Washington.

OTHER: Andrea Imler, Washington Trails Association; Yvonne Kraus, Evergreen Mountain Bike Alliance; Leah Dobey, Department of Natural Resources; Owen Rowe, State Parks and Recreation Commission.

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

**EFFECT OF HOUSE AMENDMENT(S):**

- Changes the date that the DNR and the WDFW must submit their findings regarding electric-assisted bicycles and recreational trails to the Legislature, from January 1, 2022, to September 30, 2022.
- Requires that the public process engaged in by the DNR and the WDFW related to electric-assisted bicycles and recreational trails include a consideration of opportunities to improve awareness of applicable trail rules and trail etiquette among all classes of trail users.
- Authorizes persons who possess a current parking placard for persons with disabilities to use class 1 and class 2 electric assisted bicycles on nonmotorized natural surface trails and closed roads on lands managed by the DNR and by the WDFW until June 30, 2023, or until legislation is enacted or rules are adopted on this topic, whichever is earlier.