
SENATE BILL 5924

State of Washington 60th Legislature 2007 Regular Session

By Senators Murray and Swecker

Read first time 02/07/2007. Referred to Committee on Transportation.

1 AN ACT Relating to establishing licensing requirements for certain
2 vehicle dealers; amending RCW 46.09.020, 46.70.011, 46.10.010, and
3 46.10.043; and repealing RCW 46.09.080, 46.09.085, 46.10.050, and
4 46.10.055.

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

6 **Sec. 1.** RCW 46.09.020 and 2004 c 105 s 1 are each amended to read
7 as follows:

8 The definitions in this section apply throughout this chapter
9 unless the context clearly requires otherwise.

10 (1) "Advisory committee" means the nonhighway and off-road vehicle
11 activities advisory committee established in RCW 46.09.280.

12 (2) "Committee" means the interagency committee for outdoor
13 recreation established in RCW 79A.25.110.

14 (3) (~~"Dealer" means a person, partnership, association, or~~
15 ~~corporation engaged in the business of selling off road vehicles at~~
16 ~~wholesale or retail in this state.~~

17 (~~4~~) "Department" means the department of licensing.

18 (~~(5)~~) (4) "Highway," for the purpose of this chapter only, means
19 the entire width between the boundary lines of every roadway publicly

1 maintained by the state department of transportation or any county or
2 city with funding from the motor vehicle fund. A highway is generally
3 capable of travel by a conventional two-wheel drive passenger
4 automobile during most of the year and in use by such vehicles.

5 ~~((+6))~~ (5) "Motorized vehicle" means a vehicle that derives motive
6 power from an internal combustion engine.

7 ~~((+7))~~ (6) "Nonhighway road" means any road owned or managed by a
8 public agency or any private road for which the owner has granted an
9 easement for public use for which appropriations from the motor vehicle
10 fund were not used for (a) original construction or reconstruction in
11 the last twenty-five years; or (b) maintenance in the last four years.

12 ~~((+8))~~ (7) "Nonhighway road recreation facilities" means
13 recreational facilities that are adjacent to, or accessed by, a
14 nonhighway road and intended primarily for nonhighway road recreational
15 users.

16 ~~((+9))~~ (8) "Nonhighway road recreational user" means a person
17 whose purpose for consuming fuel on a nonhighway road or off-road is
18 primarily for nonhighway road recreational purposes, including, but not
19 limited to, hunting, fishing, camping, sightseeing, wildlife viewing,
20 picnicking, driving for pleasure, kayaking/canoeing, and gathering
21 berries, firewood, mushrooms, and other natural products.

22 ~~((+10))~~ (9) "Nonhighway vehicle" means any motorized vehicle
23 including an ORV when used for recreational purposes on nonhighway
24 roads, 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 or
30 rebate under chapter 82.36 RCW while an exemption or rebate is claimed.
31 This exemption includes but is not limited to farm, construction, and
32 logging vehicles.

33 ~~((+11))~~ (10) "Nonmotorized recreational facilities" means
34 recreational trails and facilities that are adjacent to, or accessed
35 by, a nonhighway road and intended primarily for nonmotorized
36 recreational users.

37 ~~((+12))~~ (11) "Nonmotorized recreational user" means a person whose
38 purpose for consuming fuel on a nonhighway road or off-road is

1 primarily for nonmotorized recreational purposes including, but not
2 limited to, walking, hiking, backpacking, climbing, cross-country
3 skiing, snowshoeing, mountain biking, horseback riding, and pack animal
4 activities.

5 ((+13+)) (12) "Off-road vehicle" or "ORV" means any nonstreet
6 licensed vehicle when used for recreational purposes on nonhighway
7 roads, trails, or a variety of other natural terrain. Such vehicles
8 include, but are not limited to, all-terrain vehicles, motorcycles,
9 four-wheel drive vehicles, and dune buggies.

10 ((+14+)) (13) "Operator" means each person who operates, or is in
11 physical control of, any nonhighway vehicle.

12 ((+15+)) (14) "Organized competitive event" means any competition,
13 advertised in advance through written notice to organized clubs or
14 published in local newspapers, sponsored by recognized clubs, and
15 conducted at a predetermined time and place.

16 ((+16+)) (15) "ORV recreation facilities" include, but are not
17 limited to, ORV trails, trailheads, campgrounds, ORV sports parks, and
18 ORV use areas, designated for ORV use by the managing authority that
19 are intended primarily for ORV recreational users.

20 ((+17+)) (16) "ORV recreational user" means a person whose purpose
21 for consuming fuel on nonhighway roads or off-road is primarily for ORV
22 recreational purposes, including but not limited to riding an all-
23 terrain vehicle, motorcycling, or driving a four-wheel drive vehicle or
24 dune buggy.

25 ((+18+)) (17) "ORV (~~sport[s]~~) sports park" means a facility
26 designed to accommodate competitive ORV recreational uses including,
27 but not limited to, motocross racing, four-wheel drive competitions,
28 and flat track racing. Use of ORV sports parks can be competitive or
29 noncompetitive in nature.

30 ((+19+)) (18) "ORV trail" means a multiple-use corridor designated
31 by the managing authority and maintained for recreational use by
32 motorized vehicles.

33 ((+20+)) (19) "ORV use permit" means a permit issued for operation
34 of an off-road vehicle under this chapter.

35 ((+21+)) (20) "Owner" means the person other than the lienholder,
36 having an interest in or title to a nonhighway vehicle, and entitled to
37 the use or possession thereof.

1 ((+22)) (21) "Person" means any individual, firm, partnership,
2 association, or corporation.

3 **Sec. 2.** RCW 46.70.011 and 2006 c 364 s 1 are each amended to read
4 as follows:

5 As used in this chapter:

6 (1) "Vehicle" means (~~and includes~~) every device capable of being
7 moved upon a public highway and in, upon, or by which any persons or
8 property is or may be transported or drawn upon a public highway,
9 excepting devices moved by human or animal power or used exclusively
10 upon stationary rails or tracks. "Vehicle" includes off-road vehicles
11 as defined in RCW 46.09.020 and snowmobiles as defined in RCW
12 46.10.010.

13 (2) "Motor vehicle" means every vehicle which is self-propelled and
14 every vehicle which is propelled by electric power obtained from
15 overhead trolley wires, but not operated upon rails, and which is
16 required to be registered and titled under (~~Title 46 RCW, Motor~~
17 ~~Vehicles~~) this title. "Motor vehicle" includes off-road vehicles as
18 defined in RCW 46.09.020 and snowmobiles as defined in RCW 46.10.010.

19 (3) "Recreational vehicle" means a travel trailer, motor home,
20 truck camper, or camping trailer that is primarily designed and used as
21 temporary living quarters, is either self-propelled or mounted on or
22 drawn by another vehicle, is transient, is not occupied as a primary
23 residence, and is not immobilized or permanently affixed to a mobile
24 home lot.

25 (4) "Vehicle dealer" means any person, firm, association,
26 corporation, or trust, not excluded by subsection (5) of this section,
27 engaged in the business of buying, selling, listing, exchanging,
28 offering, brokering, leasing with an option to purchase, auctioning,
29 soliciting, or advertising the sale of new or used vehicles, or
30 arranging or offering or attempting to solicit or negotiate on behalf
31 of others, a sale, purchase, or exchange of an interest in new or used
32 motor vehicles, irrespective of whether the motor vehicles are owned by
33 that person. Vehicle dealers shall be classified as follows:

34 (a) A "motor vehicle dealer" is a vehicle dealer that deals in new
35 or used motor vehicles, or both;

36 (b) A "mobile home and travel trailer dealer" is a vehicle dealer

1 that deals in mobile homes, park trailers, or travel trailers, or more
2 than one type of these vehicles;

3 (c) A "miscellaneous vehicle dealer" is a vehicle dealer that deals
4 in motorcycles ~~((\otimes))~~, vehicles other than motor vehicles ~~((\otimes))~~,
5 mobile homes and travel trailers, off-road vehicles as defined in RCW
6 46.09.020, snowmobiles as defined in RCW 46.10.010, or any combination
7 of such vehicles;

8 (d) A "recreational vehicle dealer" is a vehicle dealer that deals
9 in travel trailers, motor homes, truck campers, or camping trailers
10 that are primarily designed and used as temporary living quarters, are
11 either self-propelled or mounted on or drawn by another vehicle, are
12 transient, are not occupied as a primary residence, and are not
13 immobilized or permanently affixed to a mobile home lot.

14 (5) The term "vehicle dealer" does not include, nor do the
15 licensing requirements of RCW 46.70.021 apply to, the following
16 persons, firms, associations, or corporations:

17 (a) Receivers, trustees, administrators, executors, guardians, or
18 other persons appointed by, or acting under a judgment or order of, any
19 court; or

20 (b) Public officers while performing their official duties; or

21 (c) Employees of vehicle dealers who are engaged in the specific
22 performance of their duties as such employees; or

23 (d) Any person engaged in an isolated sale of a vehicle in which
24 that person is the registered or legal owner, or both, thereof; or

25 (e) Any person, firm, association, corporation, or trust, engaged
26 in the selling of equipment other than vehicles, subject to
27 registration, used for agricultural or industrial purposes; or

28 (f) A real estate broker licensed under chapter 18.85 RCW, or an
29 affiliated licensee, who, on behalf of another negotiates the purchase,
30 sale, lease, or exchange of a manufactured or mobile home in
31 conjunction with the purchase, sale, exchange, rental, or lease of the
32 land upon which the manufactured or mobile home is, or will be,
33 located; or

34 (g) Owners who are also operators of the special highway
35 construction equipment or of the highway construction equipment for
36 which a vehicle license and display vehicle license number plate is
37 required as defined in RCW 46.16.010; or

1 (h) Any bank, trust company, savings bank, mutual savings bank,
2 savings and loan association, credit union, and any parent, subsidiary,
3 or affiliate thereof, authorized to do business in this state under
4 state or federal law with respect to the sale or other disposition of
5 a motor vehicle owned and used in their business; or with respect to
6 the acquisition and sale or other disposition of a motor vehicle in
7 which the entity has acquired an interest as a lessor, lessee, or
8 secured party; or

9 (i) Any person who is regularly engaged in the business of
10 acquiring leases or installment contracts by assignment, with respect
11 to the acquisition and sale or other disposition of a motor vehicle in
12 which the person has acquired an interest as a result of the business.

13 (6) "Vehicle salesperson" means any person who for any form of
14 compensation sells, auctions, leases with an option to purchase, or
15 offers to sell or to so lease vehicles on behalf of a vehicle dealer.

16 (7) "Department" means the department of licensing, which shall
17 administer and enforce the provisions of this chapter.

18 (8) "Director" means the director of licensing.

19 (9) "Manufacturer" means any person, firm, association,
20 corporation, or trust, resident or nonresident, who manufactures or
21 assembles new and unused vehicles or remanufactures vehicles in whole
22 or in part and further includes the terms:

23 (a) "Distributor," which means any person, firm, association,
24 corporation, or trust, resident or nonresident, who in whole or in part
25 offers for sale, sells, or distributes any new and unused vehicle to
26 vehicle dealers or who maintains factory representatives.

27 (b) "Factory branch," which means a branch office maintained by a
28 manufacturer for the purpose of selling or offering for sale, vehicles
29 to a distributor, wholesaler, or vehicle dealer, or for directing or
30 supervising in whole or in part factory or distributor representatives,
31 and further includes any sales promotion organization, whether a
32 person, firm, or corporation, which is engaged in promoting the sale of
33 new and unused vehicles in this state of a particular brand or make to
34 vehicle dealers.

35 (c) "Factory representative," which means a representative employed
36 by a manufacturer, distributor, or factory branch for the purpose of
37 making or promoting for the sale of their vehicles or for supervising
38 or contracting with their dealers or prospective dealers.

1 (10) "Established place of business" means a location meeting the
2 requirements of RCW 46.70.023(1) at which a vehicle dealer conducts
3 business in this state.

4 (11) "Principal place of business" means that dealer firm's
5 business location in the state, which place the dealer designates as
6 their principal place of business.

7 (12) "Subagency" means any place of business of a vehicle dealer
8 within the state, which place is physically and geographically
9 separated from the principal place of business of the firm or any place
10 of business of a vehicle dealer within the state, at which place the
11 firm does business using a name other than the principal name of the
12 firm, or both.

13 (13) "Temporary subagency" means a location other than the
14 principal place of business or subagency within the state where a
15 licensed vehicle dealer may secure a license to conduct the business
16 and is licensed for a period of time not to exceed ten days for a
17 specific purpose such as auto shows, shopping center promotions, tent
18 sales, exhibitions, or similar merchandising ventures. No more than
19 six temporary subagency licenses may be issued to a licensee in any
20 twelve-month period.

21 (14) "Wholesale vehicle dealer" means a vehicle dealer who buys and
22 sells other than at retail.

23 (15) "Retail vehicle dealer" means a vehicle dealer who may buy and
24 sell at both wholesale and retail.

25 (16) "Listing dealer" means a used mobile home dealer who makes
26 contracts with sellers who will compensate the dealer for obtaining a
27 willing purchaser for the seller's mobile home.

28 (17) "Auction" means a transaction conducted by means of exchanges
29 between an auctioneer and the members of the audience, constituting a
30 series of oral invitations for offers for the purchase of vehicles made
31 by the auctioneer, offers to purchase by members of the audience, and
32 the acceptance of the highest or most favorable offer to purchase.

33 (18) "Auction company" means a sole proprietorship, partnership,
34 corporation, or other legal or commercial entity licensed under chapter
35 18.11 RCW that only sells or offers to sell vehicles at auction or only
36 arranges or sponsors auctions.

37 (19) "Buyer's agent" means any person, firm, partnership,
38 association, limited liability company, limited liability partnership,

1 or corporation retained or employed by a consumer to arrange for or to
2 negotiate, or both, the purchase or lease of a new motor vehicle on
3 behalf of the consumer, and who is paid a fee or receives other
4 compensation from the consumer for its services.

5 (20) "New motor vehicle" means any motor vehicle that is self-
6 propelled and is required to be registered and titled under Title 46
7 RCW, has not been previously titled to a retail purchaser or lessee,
8 and is not a "used vehicle" as defined under RCW 46.04.660.

9 **Sec. 3.** RCW 46.10.010 and 2005 c 235 s 1 are each amended to read
10 as follows:

11 As used in this chapter the words and phrases in this section shall
12 have the designated meanings unless a different meaning is expressly
13 provided or the context otherwise clearly indicated.

14 (1) "Person" shall mean any individual, firm, partnership,
15 association, or corporation.

16 (2) "Snowmobile" shall mean any self-propelled vehicle capable of
17 traveling over snow or ice, which utilizes as its means of propulsion
18 an endless belt tread, or cleats, or any combination of these or other
19 similar means of contact with the surface upon which it is operated,
20 and which is steered wholly or in part by skis or sled type runners,
21 and which is not otherwise registered as, or subject to the motor
22 vehicle excise tax in the state of Washington.

23 (3) "Vintage snowmobile" means a snowmobile manufactured at least
24 thirty years ago.

25 (4) "All terrain vehicle" shall mean any self-propelled vehicle
26 other than a snowmobile, capable of cross-country travel on or
27 immediately over land, water, snow, ice, marsh, swampland, and other
28 natural terrain, including, but not limited to, four-wheel vehicles,
29 amphibious vehicles, ground effect or air cushion vehicles, and any
30 other means of land transportation deriving motive power from any
31 source other than muscle or wind; except any vehicle designed primarily
32 for travel on, over, or in the water, farm vehicles, or any military or
33 law enforcement vehicles.

34 (5) "Owner" shall mean the person, other than a lienholder, having
35 the property in or title to a snowmobile or all terrain vehicle, and
36 entitled to the use or possession thereof.

1 (6) "Operator" means each person who operates, or is in physical
2 control of, any snowmobile or all terrain vehicle.

3 (7) "Public roadway" shall mean the entire width of the right of
4 way of any road or street designed and ordinarily used for travel or
5 parking of motor vehicles, which is controlled by a public authority
6 other than the Washington state department of transportation, and which
7 is open as a matter of right to the general public for ordinary
8 vehicular traffic.

9 (8) "Highways" shall mean the entire width of the right of way of
10 all primary and secondary state highways, including all portions of the
11 interstate highway system.

12 (9) "Dealer" means a person, partnership, association, or
13 corporation licensed as a miscellaneous vehicle dealer under chapter
14 46.70 RCW and engaged in the business of selling snowmobiles or all
15 terrain vehicles at wholesale or retail in this state.

16 (10) "Department" shall mean the department of licensing.

17 (11) "Director" shall mean the director of the department of
18 licensing.

19 (12) "Commission" shall mean the Washington state parks and
20 recreation commission.

21 (13) "Hunt" shall mean any effort to kill, injure, capture, or
22 disturb a wild animal or wild bird.

23 (14) "Committee" means the Washington state parks and recreation
24 commission snowmobile advisory committee.

25 **Sec. 4.** RCW 46.10.043 and 1982 c 17 s 3 are each amended to read
26 as follows:

27 Each snowmobile dealer (~~((registered pursuant to the provisions of~~
28 ~~RCW 46.10.050))~~) shall register the snowmobile or, in the event the
29 snowmobile is currently registered, transfer the registration to the
30 new owner prior to delivering the snowmobile to that new owner
31 subsequent to the sale thereof by the dealer. Applications for
32 registration and transfer of registration of snowmobiles shall be made
33 to agents of the department authorized as such in accordance with RCW
34 46.01.140 and 46.01.150 as now or hereafter amended.

35 All registrations for snowmobiles must be valid for the current
36 registration period prior to the transfer of any registration,

1 including assignment to a dealer. Upon the sale of a snowmobile by a
2 dealer, the dealer may issue a temporary registration as provided by
3 rules adopted by the department.

4 NEW SECTION. **Sec. 5.** The following acts or parts of acts are each
5 repealed:

6 (1) RCW 46.09.080 (ORV dealers--Permits--Fees--Number plates--Title
7 application--Violations) and 1990 c 250 s 24, 1986 c 206 s 5, 1977
8 ex.s. c 220 s 7, 1972 ex.s. c 153 s 9, & 1971 ex.s. c 47 s 13;

9 (2) RCW 46.09.085 (Selling ORV without use permit) and 2004 c 105
10 s 10;

11 (3) RCW 46.10.050 (Snowmobile dealers' registration--Fee--Dealer
12 number plates, use--Sale or demonstration unlawful without
13 registration) and 1990 c 250 s 26, 1982 c 17 s 5, & 1971 ex.s. c 29 s
14 5; and

15 (4) RCW 46.10.055 (Denial, suspension, or revocation of dealer
16 registration or assessment of monetary civil penalty, when) and 1982 c
17 17 s 4.

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