

SENATE BILL REPORT

ESHB 2723

As Passed Senate, March 10, 2020

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 Representative Wylie).

Brief History: Passed House: 2/19/20, 94-4.

Committee Activity: Transportation: 2/26/20, 3/02/20 [DP].

Floor Activity:

Passed Senate: 3/10/20, 46-2.

Brief Summary of Engrossed First Substitute Bill

- Modifies the reciprocity provision that allows a person that has properly registered an off-road vehicle (ORV) in another state to use the vehicle in Washington without registering it here, such that the provision does not apply to 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 who 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 be paid.

SENATE COMMITTEE ON TRANSPORTATION

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

Majority Report: Do pass.

Signed by Senators Hobbs, Chair; Saldaña, Vice Chair; King, Ranking Member; Sheldon, Assistant Ranking Member; Cleveland, Das, Fortunato, Lovelett, Nguyen, O'Ban, Padden, Randall, Takko, Wilson, C. and Zeiger.

Staff: Bryon Moore (786-7726)

Background: Off-Road Vehicles. An ORV is a vehicle that is 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. There are two types of WATVs that are regulated with respect to travel on public roads. One is a motorized nonhighway vehicle with certain specifications: handlebars of 50 inches or less in width; a seat with a height of at least 20 inches; a maximum weight of 1500 pounds; and four tires with a maximum diameter of 30 inches. The second is a utility-type vehicle (UTV) designed for and capable of travel over designated roads with certain specifications: four or more low-pressure tires of 20 pounds per square inch or less; a maximum width of less than 74 inches; a maximum weight of less than 2000 pounds; and a wheelbase of 110 inches or less. The latter category of WATV must satisfy one of three additional specifications: a minimum width of 50 inches; a minimum weight of 900 pounds; or a wheelbase of over 61 inches.

An owner of an ORV other than a WATV that wishes to operate the vehicle in the state must first register the vehicle with the Department of Licensing (DOL) and pay a fee of \$18, 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. The DOL will issue a decal to the owner of an ORV other than a WATV and a metal tag to the owner of a WATV. The decal or metal tag 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 in snowmobiles to the state are not required to apply for a certificate of title. However, like with 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 Vehicles and Snowmobile Registration Enforcement and Penalties. Beginning in 2018, motorsports vehicle manufacturers were required to report annually to DOL by the first business day in February a listing of all warranties for ORVs, including WATVs, and snowmobiles that were sold to Washington residents by out-of-state dealers in the previous calendar year. DOL must examine the warranties listing provided by motorsports 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 that is not properly registered of the owner's obligations 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. In addition, 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.

Summary of Engrossed First Substitute Bill: The reciprocity provision that allows a resident of another state to use an ORV in Washington without registering it, as long as the other state has a similar exemption for Washington residents' use of ORVs in the other state, 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 motorsports 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 the Department of Revenue (DOR). DOL and DOR must jointly issue the 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.

DOL, in consultation with DOR and the Department of Natural Resources, must report to the Governor and the transportation committees of the Legislature by December 15, 2021, on the effectiveness of this act and of Chapter 218, Laws of 2017, in improving compliance with state laws relating to the registration of ORVs and snowmobiles.

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: PRO: The reciprocity provisions have created a loophole that is causing lost ORV and snowmobiles sales of \$30 million and it also means fewer tax dollars are collected. The loophole also means that the reduced registration fee revenue is not available to support trail maintenance. This problem is increasing and causing economic hardship for already distressed vehicle dealers, particularly in border areas. The changes that were made to allow Oregon residents with appropriate documentation to have a no fee ORV registration will preserve the economic benefits of tourism from their use of Washington lands.

CON: The lost sales and use tax is a real problem, but this bill does not solve it. This bill should be tabled, and we should work together to find better solutions. Current law already addresses the requirement to register your vehicle and pay the sales and use tax, but the real issue is inadequate enforcement. The Department of Natural Resources has only 12 staff statewide to address this issue. This bill will exacerbate this problem. The changes to reciprocity with Oregon will cause lost tourism and lost revenue for trail maintenance and other activities.

Persons Testifying: PRO: Representative Sharon Wylie, Prime Sponsor; Grant Nelson, Washington State Motorsports Dealers Association; Jim Boltz, Cycle Barn/Owner, President, Washington State Motorsports Dealers Association; Linda Driscoll, Premier Polaris/Owner; John Jabusch, Pro Caliber Motorsports and Dick Hannah Dealerships/Owner.

CON: Jakob Perry, Washington Off Highway Vehicle Alliance.

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