

CERTIFICATION OF ENROLLMENT

**ENGROSSED HOUSE BILL 1003**

Chapter 213, Laws of 2005

(partial veto)

59th Legislature  
2005 Regular Session

OFF-ROAD VEHICLES--NONHIGHWAY USE

EFFECTIVE DATE: 7/1/05

Passed by the House April 19, 2005  
Yeas 98 Nays 0

FRANK CHOPP

**Speaker of the House of Representatives**

Passed by the Senate April 14, 2005  
Yeas 44 Nays 1

BRAD OWEN

**President of the Senate**

Approved April 28, 2005, with the  
exception of section 8, which is vetoed.

CHRISTINE GREGOIRE

**Governor of the State of Washington**

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 1003** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

**Chief Clerk**

FILED

April 28, 2005 - 3:28 p.m.

**Secretary of State  
State of Washington**

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**ENGROSSED HOUSE BILL 1003**

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AS AMENDED BY THE SENATE

Passed Legislature - 2005 Regular Session

**State of Washington                      59th Legislature                      2005 Regular Session**

**By** Representatives Hinkle, B. Sullivan, Curtis, Campbell, Blake, Dunn and Condotta

Prefiled 12/21/2004.      Read first time 01/10/2005.      Referred to Committee on Natural Resources, Ecology & Parks.

1            AN ACT Relating to the operation of off-road vehicles on roadways;  
2 amending RCW 46.09.010, 46.09.120, and 46.37.010; reenacting and  
3 amending RCW 46.16.010; adding new sections to chapter 46.09 RCW;  
4 creating new sections; providing an effective date; providing an  
5 expiration date; and declaring an emergency.

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

7            NEW SECTION.    **Sec. 1.** The legislature finds that off-road  
8 recreational vehicles (ORVs) provide opportunities for a wide variety  
9 of outdoor recreation activities. The legislature further finds that  
10 the limited amount of ORV recreation areas presents a challenge for ORV  
11 recreational users, natural resource land managers, and private  
12 landowners. The legislature further finds that many nonhighway roads  
13 provide opportunities for ORV use and that these opportunities may  
14 reduce conflicts between users and facilitate responsible ORV  
15 recreation. However, restrictions intended for motor vehicles may  
16 prevent ORV use on certain roads, including forest service roads.  
17 Therefore, the legislature finds that local, state, and federal  
18 jurisdictions should be given the flexibility to allow ORV use on

1 nonhighway roads they own and manage or for which they are authorized  
2 to allow public ORV use under an easement granted by the owner.  
3 Nothing in this act authorizes trespass on private property.

4 **Sec. 2.** RCW 46.09.010 and 1972 ex.s. c 153 s 2 are each amended to  
5 read as follows:

6 The provisions of this chapter shall apply to all lands in this  
7 state. Nothing in this chapter (~~((43.09—RCW))~~), RCW (~~((67.32.050,~~  
8 ~~67.32.080, 67.32.100, 67.32.130 or 67.32.140))~~ 79A.35.040, 79A.35.070,  
9 79A.35.090, 79A.35.110, and 79A.35.120 shall be deemed to grant to any  
10 person the right or authority to enter upon private property without  
11 permission of the property owner.

12 **Sec. 3.** RCW 46.09.120 and 2003 c 377 s 1 are each amended to read  
13 as follows:

14 (1) It is a traffic infraction for any person to operate any  
15 nonhighway vehicle:

16 (a) In such a manner as to endanger the property of another;

17 (b) On lands not owned by the operator or owner of the nonhighway  
18 vehicle without a lighted headlight and taillight between the hours of  
19 dusk and dawn, or when otherwise required for the safety of others  
20 regardless of ownership;

21 (c) On lands not owned by the operator or owner of the nonhighway  
22 vehicle without an adequate braking device or when otherwise required  
23 for the safety of others regardless of ownership;

24 (d) Without a spark arrester approved by the department of natural  
25 resources;

26 (e) Without an adequate, and operating, muffling device which  
27 effectively limits vehicle noise to no more than eighty-six decibels on  
28 the "A" scale at fifty feet as measured by the Society of Automotive  
29 Engineers (SAE) test procedure J 331a, except that a maximum noise  
30 level of one hundred and five decibels on the "A" scale at a distance  
31 of twenty inches from the exhaust outlet shall be an acceptable  
32 substitute in lieu of the Society of Automotive Engineers test  
33 procedure J 331a when measured:

34 (i) At a forty-five degree angle at a distance of twenty inches  
35 from the exhaust outlet;

1 (ii) With the vehicle stationary and the engine running at a steady  
2 speed equal to one-half of the manufacturer's maximum allowable ("red  
3 line") engine speed or where the manufacturer's maximum allowable  
4 engine speed is not known the test speed in revolutions per minute  
5 calculated as sixty percent of the speed at which maximum horsepower is  
6 developed; and

7 (iii) With the microphone placed ten inches from the side of the  
8 vehicle, one-half way between the lowest part of the vehicle body and  
9 the ground plane, and in the same lateral plane as the rearmost exhaust  
10 outlet where the outlet of the exhaust pipe is under the vehicle;

11 (f) On lands not owned by the operator or owner of the nonhighway  
12 vehicle upon the shoulder or inside bank or slope of any nonhighway  
13 road or highway, or upon the median of any divided highway;

14 (g) On lands not owned by the operator or owner of the nonhighway  
15 vehicle in any area or in such a manner so as to unreasonably expose  
16 the underlying soil, or to create an erosion condition, or to injure,  
17 damage, or destroy trees, growing crops, or other vegetation;

18 (h) On lands not owned by the operator or owner of the nonhighway  
19 vehicle or on any nonhighway road or trail, when these are restricted  
20 to pedestrian or animal travel; (~~and~~)

21 (i) On any public lands in violation of rules and regulations of  
22 the agency administering such lands; and

23 (j) On a private nonhighway road in violation of section 4(3) of  
24 this act.

25 (2) It is a misdemeanor for any person to operate any nonhighway  
26 vehicle while under the influence of intoxicating liquor or a  
27 controlled substance.

28 (3)(a) Except for an off-road vehicle equipped with seat belts and  
29 roll bars or an enclosed passenger compartment, it is a traffic  
30 infraction for any person to operate or ride an off-road vehicle on a  
31 nonhighway road without wearing upon his or her head a motorcycle  
32 helmet fastened securely while in motion. For purposes of this  
33 section, "motorcycle helmet" has the same meaning as provided in RCW  
34 46.37.530.

35 (b) Subsection (3)(a) of this section does not apply to an off-road  
36 vehicle operator operating on his or her own land.

37 (c) Subsection (3)(a) of this section does not apply to an off-road

1 vehicle operator operating on agricultural lands owned or leased by the  
2 off-road vehicle operator or the operator's employer.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 46.09 RCW  
4 to read as follows:

5 (1) Except as otherwise provided in this section, it is lawful to  
6 operate an off-road vehicle upon a nonhighway road and in parking areas  
7 serving designated off-road vehicle areas if the state, federal, local,  
8 or private authority responsible for the management of the nonhighway  
9 road authorizes the use of off-road vehicles.

10 (2) Operations of an off-road vehicle on a nonhighway road under  
11 this section is exempt from licensing requirements of RCW 46.16.010 and  
12 vehicle lighting and equipment requirements of chapter 46.37 RCW.

13 (3) It is unlawful to operate an off-road vehicle upon a private  
14 nonhighway road if the road owner has not authorized the use of off-  
15 road vehicles.

16 (4) Nothing in this section authorizes trespass on private  
17 property.

18 NEW SECTION. **Sec. 5.** A new section is added to chapter 46.09 RCW  
19 to read as follows:

20 (1) Except as specified in subsection (2) of this section, no  
21 person under thirteen years of age may operate an off-road vehicle on  
22 or across a highway or nonhighway road in this state.

23 (2) Persons under thirteen years of age may operate an off-road  
24 vehicle on a nonhighway road designated for off-road vehicle use under  
25 the direct supervision of a person eighteen years of age or older  
26 possessing a valid license to operate a motor vehicle under chapter  
27 46.20 RCW.

28 **Sec. 6.** RCW 46.16.010 and 2003 c 353 s 8 and 2003 c 53 s 238 are  
29 each reenacted and amended to read as follows:

30 (1) It is unlawful for a person to operate any vehicle over and  
31 along a public highway of this state without first having obtained and  
32 having in full force and effect a current and proper vehicle license  
33 and display vehicle license number plates therefor as by this chapter  
34 provided.

1 (2) Failure to make initial registration before operation on the  
2 highways of this state is a misdemeanor, and any person convicted  
3 thereof must be punished by a fine of no less than three hundred thirty  
4 dollars, no part of which may be suspended or deferred.

5 (3) Failure to renew an expired registration before operation on  
6 the highways of this state is a traffic infraction.

7 (4) The licensing of a vehicle in another state by a resident of  
8 this state, as defined in RCW 46.16.028, evading the payment of any tax  
9 or license fee imposed in connection with registration, is a gross  
10 misdemeanor punishable as follows:

11 (a) For a first offense, up to one year in the county jail and a  
12 fine equal to twice the amount of delinquent taxes and fees, no part of  
13 which may be suspended or deferred;

14 (b) For a second or subsequent offense, up to one year in the  
15 county jail and a fine equal to four times the amount of delinquent  
16 taxes and fees, no part of which may be suspended or deferred;

17 (c) For fines levied under (b) of this subsection, an amount equal  
18 to the avoided taxes and fees owed will be deposited in the vehicle  
19 licensing fraud account created in the state treasury;

20 (d) The avoided taxes and fees shall be deposited and distributed  
21 in the same manner as if the taxes and fees were properly paid in a  
22 timely fashion.

23 (5) These provisions shall not apply to the following vehicles:

24 (a) Motorized foot scooters;

25 (b) Electric-assisted bicycles;

26 (c) Off-road vehicles operating on nonhighway roads under section  
27 4 of this act;

28 (d) Farm vehicles if operated within a radius of fifteen miles of  
29 the farm where principally used or garaged, farm tractors and farm  
30 implements including trailers designed as cook or bunk houses used  
31 exclusively for animal herding temporarily operating or drawn upon the  
32 public highways, and trailers used exclusively to transport farm  
33 implements from one farm to another during the daylight hours or at  
34 night when such equipment has lights that comply with the law;

35 ~~((d))~~ (e) Spray or fertilizer applicator rigs designed and used  
36 exclusively for spraying or fertilization in the conduct of  
37 agricultural operations and not primarily for the purpose of  
38 transportation, and nurse rigs or equipment auxiliary to the use of and

1 designed or modified for the fueling, repairing, or loading of spray  
2 and fertilizer applicator rigs and not used, designed, or modified  
3 primarily for the purpose of transportation;

4 ~~((e))~~ (f) Fork lifts operated during daylight hours on public  
5 highways adjacent to and within five hundred feet of the warehouses  
6 which they serve: PROVIDED FURTHER, That these provisions shall not  
7 apply to vehicles used by the state parks and recreation commission  
8 exclusively for park maintenance and operations upon public highways  
9 within state parks;

10 ~~((f))~~ (g) "Special highway construction equipment" defined as  
11 follows: Any vehicle which is designed and used primarily for grading  
12 of highways, paving of highways, earth moving, and other construction  
13 work on highways and which is not designed or used primarily for the  
14 transportation of persons or property on a public highway and which is  
15 only incidentally operated or moved over the highway. It includes, but  
16 is not limited to, road construction and maintenance machinery so  
17 designed and used such as portable air compressors, air drills, asphalt  
18 spreaders, bituminous mixers, bucket loaders, track laying tractors,  
19 ditchers, leveling graders, finishing machines, motor graders, paving  
20 mixers, road rollers, scarifiers, earth moving scrapers and carryalls,  
21 lighting plants, welders, pumps, power shovels and draglines, self-  
22 propelled and tractor-drawn earth moving equipment and machinery,  
23 including dump trucks and tractor-dump trailer combinations which  
24 either (i) are in excess of the legal width, or (ii) which, because of  
25 their length, height, or unladen weight, may not be moved on a public  
26 highway without the permit specified in RCW 46.44.090 and which are not  
27 operated laden except within the boundaries of the project limits as  
28 defined by the contract, and other similar types of construction  
29 equipment, or (iii) which are driven or moved upon a public highway  
30 only for the purpose of crossing such highway from one property to  
31 another, provided such movement does not exceed five hundred feet and  
32 the vehicle is equipped with wheels or pads which will not damage the  
33 roadway surface.

34 Exclusions:

35 "Special highway construction equipment" does not include any of  
36 the following:

37 Dump trucks originally designed to comply with the legal size and  
38 weight provisions of this code notwithstanding any subsequent

1 modification which would require a permit, as specified in RCW  
2 46.44.090, to operate such vehicles on a public highway, including  
3 trailers, truck-mounted transit mixers, cranes and shovels, or other  
4 vehicles designed for the transportation of persons or property to  
5 which machinery has been attached.

6 (6) The following vehicles, whether operated solo or in  
7 combination, are exempt from license registration and displaying  
8 license plates as required by this chapter:

9 (a) A converter gear used to convert a semitrailer into a trailer  
10 or a two-axle truck or tractor into a three or more axle truck or  
11 tractor or used in any other manner to increase the number of axles of  
12 a vehicle. Converter gear includes an auxiliary axle, booster axle,  
13 dolly, and jeep axle.

14 (b) A tow dolly that is used for towing a motor vehicle behind  
15 another motor vehicle. The front or rear wheels of the towed vehicle  
16 are secured to and rest on the tow dolly that is attached to the towing  
17 vehicle by a tow bar.

18 **Sec. 7.** RCW 46.37.010 and 1997 c 241 s 14 are each amended to read  
19 as follows:

20 (1) It is a traffic infraction for any person to drive or move or  
21 for the owner to cause or knowingly permit to be driven or moved on any  
22 highway any vehicle or combination of vehicles which is in such unsafe  
23 condition as to endanger any person, or which does not contain those  
24 parts or is not at all times equipped with such lamps and other  
25 equipment in proper condition and adjustment as required in this  
26 chapter or in regulations issued by the chief of the Washington state  
27 patrol, or which is equipped in any manner in violation of this chapter  
28 or the state patrol's regulations, or for any person to do any act  
29 forbidden or fail to perform any act required under this chapter or the  
30 state patrol's regulations.

31 (2) Nothing contained in this chapter or the state patrol's  
32 regulations shall be construed to prohibit the use of additional parts  
33 and accessories on any vehicle not inconsistent with the provisions of  
34 this chapter or the state patrol's regulations.

35 (3) The provisions of the chapter and the state patrol's  
36 regulations with respect to equipment on vehicles shall not apply to

1 implements of husbandry, road machinery, road rollers, or farm tractors  
2 except as herein made applicable.

3 (4) No owner or operator of a farm tractor, self-propelled unit of  
4 farm equipment, or implement of husbandry shall be guilty of a crime or  
5 subject to penalty for violation of RCW 46.37.160 as now or hereafter  
6 amended unless such violation occurs on a public highway.

7 (5) It is a traffic infraction for any person to sell or offer for  
8 sale vehicle equipment which is required to be approved by the state  
9 patrol as prescribed in RCW 46.37.005 unless it has been approved by  
10 the state patrol.

11 (6) The provisions of this chapter with respect to equipment  
12 required on vehicles shall not apply to motorcycles or motor-driven  
13 cycles except as herein made applicable.

14 (7) This chapter does not apply to off-road vehicles used on  
15 nonhighway roads.

16 (8) This chapter does not apply to vehicles used by the state parks  
17 and recreation commission exclusively for park maintenance and  
18 operations upon public highways within state parks.

19 ((+8)) (9) Notices of traffic infraction issued to commercial  
20 drivers under the provisions of this chapter with respect to equipment  
21 required on commercial motor vehicles shall not be considered for  
22 driver improvement purposes under chapter 46.20 RCW.

23 ((+9)) (10) Whenever a traffic infraction is chargeable to the  
24 owner or lessee of a vehicle under subsection (1) of this section, the  
25 driver shall not be arrested or issued a notice of traffic infraction  
26 unless the vehicle is registered in a jurisdiction other than  
27 Washington state, or unless the infraction is for an offense that is  
28 clearly within the responsibility of the driver.

29 ((+10)) (11) Whenever the owner or lessee is issued a notice of  
30 traffic infraction under this section the court may, on the request of  
31 the owner or lessee, take appropriate steps to make the driver of the  
32 vehicle, or any other person who directs the loading, maintenance, or  
33 operation of the vehicle, a codefendant. If the codefendant is held  
34 solely responsible and is found to have committed the traffic  
35 infraction, the court may dismiss the notice against the owner or  
36 lessee.

1        \*NEW SECTION. Sec. 8. (1)(a) A task force on off-road vehicle  
2 noise management is established. The task force consists of the  
3 following members:

4        (i) Two members from each of the two largest caucuses of the house  
5 of representatives, appointed by the speaker of the house of  
6 representatives;

7        (ii) Two members from each of the two largest caucuses of the  
8 senate, appointed by the president of the senate; and

9        (iii) Participants invited by the legislative members, including  
10 but not limited to persons representing the following:

11        (A) Three county commissioners, one representing counties with a  
12 population of two hundred thousand or more people and two representing  
13 counties with populations of fewer than two hundred thousand people;

14        (B) A representative of port districts;

15        (C) A representative of the department of natural resources,  
16 selected by the commissioner of public lands;

17        (D) A representative of the department of ecology, selected by the  
18 director of ecology;

19        (E) A representative of the interagency committee for outdoor  
20 recreation, selected by the director of the committee;

21        (F) A representative of the parks and recreation commission,  
22 selected by the director of the commission;

23        (G) A person representing manufacturers of off-road vehicles;

24        (H) A representative of the United States forest service;

25        (I) Recreational users; and

26        (J) Interested citizens.

27        (b) The committee shall choose its chair from among its membership.

28        (2) The committee shall review the following issues:

29        (a) The appropriateness and enforceability of current decibel  
30 requirements for off-road vehicles;

31        (b) The appropriateness of any off-road vehicle usage requirements  
32 that would minimize nuisance noise impacts on those not operating the  
33 off-road vehicle;

34        (c) The applicability and consistency of local ordinances  
35 concerning noise and off-road vehicle usage; and

36        (d) The availability of, and barriers to, using public lands or  
37 other large ownerships to create areas where off-road vehicles can be  
38 operated with minimum noise disturbance of neighbors.

1           (3)(a) *The committee shall be staffed by the house office of*  
2 *program research and senate committee services.*

3           (b) *Legislative members of the committee will be reimbursed for*  
4 *travel expenses in accordance with RCW 44.04.120.*

5           (4) *The committee shall report its findings and recommendations in*  
6 *the form of draft legislation to the legislature by December 1, 2005.*

7           (5) *This section expires July 1, 2006.*

*\*Sec. 8 was vetoed. See message at end of chapter.*

8           NEW SECTION. **Sec. 9.** This act is necessary for the immediate  
9 preservation of the public peace, health, or safety, or support of the  
10 state government and its existing public institutions, and takes effect  
11 July 1, 2005.

Passed by the House April 19, 2005.

Passed by the Senate April 14, 2005.

Approved by the Governor April 28, 2005, with the exception of  
certain items that were vetoed.

Filed in Office of Secretary of State April 28, 2005.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Section 8, Engrossed House  
Bill No. 1003 entitled:

"AN ACT Relating to the operation of off-road vehicles on  
roadways."

Sections 1 through 7 and 9 of Engrossed House Bill 1003 provide for  
increased flexibility and improved safety requirements when operating  
an off-road vehicle. Specifically, no person under the age of  
thirteen (13) years may operate an off-road vehicle unless directly  
supervised by a person over the age of eighteen (18). Any person  
operating an off-road vehicle must wear an approved helmet unless the  
vehicle is equipped with seat belts, roll bars or an enclosed  
passenger compartment. Engrossed House Bill 1003 provides further  
flexibility for off-road vehicle users by permitting, in certain  
circumstances, the operation of the vehicle on non-highway roads to  
facilitate greater access to off-road vehicle specific trails.

Section 8 of Engrossed House Bill 1003 creates a task force for the  
purpose of studying and making recommendations regarding off-road  
vehicle noise. I am vetoing Section 8 because the task force created  
in that section is identical to the task force created in Engrossed  
Substitute House Bill 5089 (Sec. 1), which I signed April 22, 2005.

For these reasons, I have vetoed Section 8 of Engrossed House Bill  
1003.

With the exception of Section 8, Engrossed House Bill 1003 is  
approved."