
SUBSTITUTE SENATE BILL 5544

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Consumer Protection & Housing (originally sponsored by Senators Fraser, Poulsen, Fairley, Weinstein, Jacobsen, Franklin and Kline)

READ FIRST TIME 02/26/07.

1 AN ACT Relating to environmental noise abatement; amending RCW
2 46.09.120 and 46.09.190; adding new sections to chapter 70.107 RCW;
3 prescribing penalties; and providing an effective date.

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

5 **Sec. 1.** RCW 46.09.120 and 2006 c 212 s 3 are each amended to read
6 as follows:

7 (1) Except as provided in subsection (4) of this section, it is a
8 traffic infraction for any person to operate any nonhighway vehicle:

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

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

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

17 (d) Without a spark arrester approved by the department of natural
18 resources;

1 (e) Without an adequate, and operating, muffling device which
2 effectively limits vehicle noise to no more than (~~eighty-six decibels~~
3 ~~on the "A" scale at fifty feet as measured by the Society of Automotive~~
4 ~~Engineers (SAE) test procedure J 331a, except that a maximum noise~~
5 ~~level of one hundred and five)) one hundred five decibels on the "A"
6 scale for model year 2007 vehicles and earlier models and no more than
7 ninety-six decibels on the "A" scale for model year 2008 vehicles and
8 later models. The noise must be determined at a distance of twenty
9 inches from the exhaust outlet (~~shall be an acceptable substitute in~~
10 ~~lieu of~~) measured consistent with the Society of Automotive Engineers
11 test procedure J (~~331a~~) 1287 when measured:~~

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

14 (ii) With the vehicle stationary and the engine running at a steady
15 speed equal to one-half of the manufacturer's maximum allowable ("red
16 line") engine speed or where the manufacturer's maximum allowable
17 engine speed is not known the test speed in revolutions per minute
18 calculated as sixty percent of the speed at which maximum horsepower is
19 developed; and

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

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

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

31 (h) On lands not owned by the operator or owner of the nonhighway
32 vehicle or on any nonhighway road or trail, when these are restricted
33 to pedestrian or animal travel;

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

36 (j) On a private nonhighway road in violation of RCW 46.09.115(3).

37 (2) It is a misdemeanor for any person to operate any nonhighway

1 vehicle while under the influence of intoxicating liquor or a
2 controlled substance.

3 (3)(a) Except for an off-road vehicle equipped with seat belts and
4 roll bars or an enclosed passenger compartment, it is a traffic
5 infraction for any person to operate or ride an off-road vehicle on a
6 nonhighway road without wearing upon his or her head a motorcycle
7 helmet fastened securely while in motion. For purposes of this
8 section, "motorcycle helmet" has the same meaning as provided in RCW
9 46.37.530.

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

12 (c) Subsection (3)(a) of this section does not apply to an off-road
13 vehicle operator operating on agricultural lands owned or leased by the
14 off-road vehicle operator or the operator's employer.

15 (4) It is not a traffic infraction to operate an off-road vehicle
16 on a street, road, or highway as authorized under RCW 46.09.180.

17 **Sec. 2.** RCW 46.09.190 and 1979 ex.s. c 136 s 42 are each amended
18 to read as follows:

19 (1) Except as provided in RCW 46.09.120(2) and 46.09.130 (~~as now~~
20 ~~or hereafter amended~~), violation of the provisions of this chapter is
21 a traffic infraction for which a penalty of not less than (~~twenty-~~
22 ~~five~~) one hundred dollars may be imposed for a first offense.
23 Subsequent offenses shall result in a doubling of the penalty, with a
24 maximum penalty of eight hundred dollars for a single violation.

25 (2) In addition to the penalties provided in subsection (1) of this
26 section, the owner and/or the operator of any nonhighway vehicle shall
27 be liable for any damage to property including damage to trees, shrubs,
28 or growing crops injured as the result of travel by the nonhighway
29 vehicle. The owner of such property may recover from the person
30 responsible three times the amount of damage.

31 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.107 RCW
32 to read as follows:

33 (1) The definitions in this subsection apply throughout this
34 section unless the context clearly requires otherwise.

35 (a) "Off-road vehicle" or "ORV" means any nonstreet licensed
36 vehicle when used for recreational purposes on roads, trails, or a

1 variety of other natural terrain. Such vehicles include, but are not
2 limited to, all-terrain vehicles, motorcycles, four-wheel drive
3 vehicles, and dune buggies.

4 (b) "Plainly audible" means a noise level that a reasonable person
5 would, in all circumstances, consider to be excessive, unnecessary,
6 intrusive, disturbing, or unacceptable.

7 (2) It is a violation of this chapter to operate an off-road
8 vehicle in such a manner where the noise created by the engine of the
9 vehicle exceeds fifty-five decibels at the property line or is plainly
10 audible or exceeds forty-five decibels inside or within ten feet of a
11 residence. Noise from the combined activities of an off-road vehicle
12 being serviced, repaired, tested, loaded for transport, or to access or
13 exit property to allow for the sale or repair of a nonhighway vehicle
14 is allowed to exceed fifty-five decibels at the property line and is
15 plainly audible or exceeds forty-five decibels inside or within ten
16 feet of a residence for five minutes in any twenty-four hour period
17 between the hours of 7:00 a.m. and 10:00 p.m. If there is more than
18 one vehicle involved, the five minute limitation applies to all
19 vehicles combined. Noise from the use of off-road vehicles for
20 agricultural and forest management purposes is exempt from the
21 prohibition in this section.

22 (3) This section preempts any duration exemptions adopted under RCW
23 70.107.030(2)(b) as applied to the operation of off-road vehicles in
24 residential areas.

25 (4) A person found to have violated this section is subject to a
26 penalty of not less than one hundred dollars per violation for a first
27 violation. Subsequent violations of this section shall result in a
28 doubling of the penalty, with a maximum penalty of eight hundred
29 dollars for a single violation.

30 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.107 RCW
31 to read as follows:

32 A party who brings an action to enjoin the use of off-road vehicles
33 being operated in a manner that is in violation of section 3 of this
34 act or WAC 173-60-040, or to recover damages associated with the use of
35 off-road vehicles being operated in a manner that is in violation of
36 section 3 of this act or WAC 173-60-040, is entitled to recover costs

1 and attorneys' fees pursuant to Title 4 RCW.

2 NEW SECTION. **Sec. 5.** This act takes effect August 1, 2007.

--- END ---