

SENATE BILL REPORT

SB 5128

As of February 5, 2009

Title: An act relating to addressing natural resource impacts from off-road vehicle use.

Brief Description: Addressing natural resource impacts from off-road vehicle use.

Sponsors: Senators Jacobsen and Kline.

Brief History:

Committee Activity: Natural Resources, Ocean & Recreation: 1/29/09.

SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

Staff: Curt Gavigan (786-7437)

Background: Age Limitations for ORV Use. In general, a person under 13 years old may not ride an off-road vehicle (ORV) on or across certain roads. However, a person under 13 years old may ride an ORV on a road designated for ORV use under the direct supervision of a person 18 years old or older who has a driver's license.

Landowner Liability Protection. The recreation use immunity statute generally provides protection from tort liability for landowners who allow public use of their lands and do not charge a fee. However, the liability protection offered under the statute is not absolute. The statute does not protect landowners from certain dangerous conditions for which warning signs have not been conspicuously posted.

NOVA ORV Recreation Facility Funding. The Recreation and Conservation Funding Board administers the Nonhighway and Off-road Vehicle Activities (NOVA) program. The NOVA program provides funds for land and facilities that support recreation, including ORV recreation facilities. Such grants are funded from a portion of the motor vehicle fuel tax rebate, and by amounts paid by users for ORV use permits.

ORV Natural Resource Damage. It is generally an infraction to operate a nonhighway vehicle in a manner that unreasonably exposes the underlying soil, creates erosion, or damages trees, crops, or other vegetation.

Summary of Bill: Age Limitations for ORV Use. In order to ride an ORV on or across certain roads, a person under 18 years old must possess a driver's license. However, any

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person may operate an ORV on a road designated for ORV use under the direct supervision of someone 18 years old or older who has a driver's license.

Landowner Liability Protection. Landowners are provided additional liability protection under the recreation use immunity statute for injuries to ORV users riding in an unauthorized manner. Specifically, such landowners are not liable for known dangerous artificial latent conditions for which warning signs have not been conspicuously posted.

NOVA ORV Recreation Facility Funding. Prior to expending NOVA program grant funds for ORV recreation facilities, the program must fund projects submitted by the Department of Natural Resources, the Department of Fish and Wildlife, and the State Parks and Recreation Commission to repair or mitigate for certain natural resource impacts from ORV use.

ORV Natural Resource Damage. In general, it is a misdemeanor to operate a nonhighway vehicle in areas not authorized for use by such vehicles in a manner that unreasonably exposes the underlying soil, creates erosion, or damages trees, crops, or other vegetation. A vehicle under operation during such a violation is subject to seizure and forfeiture by any law enforcement officer of the state. A process for seizure and forfeiture is established.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: CON: As the bill states, most users are indeed law abiding and respectful. Riding an ORV in a way that damages natural resources is already a crime, so the state should focus on the laws it already has. Moving an action that simply injures a plant from an infraction to a misdemeanor is too extreme, as is allowing the forfeiture of an ORV.

OTHER: Natural resource damage is a tough issue for land managers as well as ORV users. It can be very expensive to restore damaged natural resource lands. The ideas in this bill are worthy of discussion, but this approach may stir up controversy. DNR is leading a work group that may help to resolve some of these issues.

Persons Testifying: CON: John Eaton, Mason County Parks and Trails Advisory Board; Tod Petersen, Washington Off Highway Vehicle Alliance; Andy Tudhope, citizen.

OTHER: Bonnie Bunning, Department of Natural Resources.