

HB 2617 - S AMD
By Senator Haugen

ADOPTED AS AMENDED 03/01/2006

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 46.16.010 and 2005 c 350 s 1, 2005 c 323 s 2, and
4 2005 c 213 s 6 are each reenacted and amended to read as follows:

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

10 (2) Failure to make initial registration before operation on the
11 highways of this state is a traffic infraction, and any person
12 committing this infraction shall pay a penalty of five hundred twenty-
13 nine dollars, no part of which may be suspended or deferred.

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

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

20 (a) For a first offense, up to one year in the county jail and
21 payment of a fine of five hundred twenty-nine dollars plus twice the
22 amount of delinquent taxes and fees, no part of which may be suspended
23 or deferred;

24 (b) For a second or subsequent offense, up to one year in the
25 county jail and payment of a fine of five hundred twenty-nine dollars
26 plus four times the amount of delinquent taxes and fees, no part of
27 which may be suspended or deferred;

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

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

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

5 (a) Motorized foot scooters;

6 (b) Electric-assisted bicycles;

7 (c) Off-road vehicles operating on nonhighway roads under RCW
8 46.09.115;

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

16 (e) Spray or fertilizer applicator rigs designed and used
17 exclusively for spraying or fertilization in the conduct of
18 agricultural operations and not primarily for the purpose of
19 transportation, and nurse rigs or equipment auxiliary to the use of and
20 designed or modified for the fueling, repairing, or loading of spray
21 and fertilizer applicator rigs and not used, designed, or modified
22 primarily for the purpose of transportation;

23 (f) Fork lifts operated during daylight hours on public highways
24 adjacent to and within five hundred feet of the warehouses which they
25 serve: PROVIDED FURTHER, That these provisions shall not apply to
26 vehicles used by the state parks and recreation commission exclusively
27 for park maintenance and operations upon public highways within state
28 parks;

29 (g) "Trams" used for transporting persons to and from facilities
30 related to the horse racing industry as regulated in chapter 67.16 RCW,
31 as long as the public right-of-way routes over which the trams operate
32 are not more than one mile from end to end, the public rights-of-way
33 over which the tram operates have an average daily traffic of not more
34 than 15,000 vehicles per day, and the activity is in conformity with
35 federal law. The operator must be a licensed driver and at least
36 eighteen years old. For the purposes of this section, "tram" also
37 means a vehicle, or combination of vehicles linked together with a

1 single mode of propulsion, used to transport persons from one location
2 to another;

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

27 Exclusions:

28 "Special highway construction equipment" does not include any of
29 the following:

30 Dump trucks originally designed to comply with the legal size and
31 weight provisions of this code notwithstanding any subsequent
32 modification which would require a permit, as specified in RCW
33 46.44.090, to operate such vehicles on a public highway, including
34 trailers, truck-mounted transit mixers, cranes and shovels, or other
35 vehicles designed for the transportation of persons or property to
36 which machinery has been attached.

37 (6) The following vehicles, whether operated solo or in

1 combination, are exempt from license registration and displaying
2 license plates as required by this chapter:

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

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

12 (c) An off-road vehicle operated on a street, road, or highway as
13 authorized under RCW 46.09.180.

14 (7)(a) A motor vehicle subject to initial or renewal registration
15 under this section shall not be registered to a natural person unless
16 the person at time of application:

- 17 (i) Presents an unexpired Washington state driver's license; or
- 18 (ii) Certifies that he or she is:

19 (A) A Washington resident who does not operate a motor vehicle on
20 public roads; or

21 (B) Exempt from the requirement to obtain a Washington state
22 driver's license under RCW 46.20.025.

23 (b) For shared or joint ownership, the department will set up
24 procedures to verify that all owners meet the requirements of this
25 subsection.

26 (c) A person falsifying residency is guilty of a gross misdemeanor
27 punishable only by a fine of five hundred twenty-nine dollars.

28 (d) The department may adopt rules necessary to implement this
29 subsection, including rules under which a natural person applying for
30 registration may be exempt from the requirements of this subsection
31 where the person provides evidence satisfactory to the department that
32 he or she has a valid and compelling reason for not being able to meet
33 the requirements of this subsection.

34 **Sec. 2.** RCW 46.09.115 and 2005 c 213 s 4 are each amended to read
35 as follows:

36 (1) Except as otherwise provided in this section, it is lawful to
37 operate an off-road vehicle upon:

1 (a) A nonhighway road and in parking areas serving designated off-
2 road vehicle areas if the state, federal, local, or private authority
3 responsible for the management of the nonhighway road authorizes the
4 use of off-road vehicles; and

5 (b) A street, road, or highway as authorized under RCW 46.09.180.

6 (2) Operations of an off-road vehicle on a nonhighway road, or on
7 a street, road, or highway as authorized under RCW 46.09.180, under
8 this section is exempt from licensing requirements of RCW 46.16.010 and
9 vehicle lighting and equipment requirements of chapter 46.37 RCW.

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

13 (4) Nothing in this section authorizes trespass on private
14 property.

15 (5) The provisions of RCW 4.24.210(5) shall apply to public
16 landowners who allow members of the public to use public facilities
17 accessed by a highway, street, or nonhighway road for recreational off-
18 road vehicle use.

19 **Sec. 3.** RCW 46.09.120 and 2005 c 213 s 3 are each amended to read
20 as follows:

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

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

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

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

31 (d) Without a spark arrester approved by the department of natural
32 resources;

33 (e) Without an adequate, and operating, muffling device which
34 effectively limits vehicle noise to no more than eighty-six decibels on
35 the "A" scale at fifty feet as measured by the Society of Automotive
36 Engineers (SAE) test procedure J 331a, except that a maximum noise
37 level of one hundred and five decibels on the "A" scale at a distance

1 of twenty inches from the exhaust outlet shall be an acceptable
2 substitute in lieu of the Society of Automotive Engineers test
3 procedure J 331a when measured:

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

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

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

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

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

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

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

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

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

32 (3)(a) Except for an off-road vehicle equipped with seat belts and
33 roll bars or an enclosed passenger compartment, it is a traffic
34 infraction for any person to operate or ride an off-road vehicle on a
35 nonhighway road without wearing upon his or her head a motorcycle
36 helmet fastened securely while in motion. For purposes of this
37 section, "motorcycle helmet" has the same meaning as provided in RCW
38 46.37.530.

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

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

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

8 **Sec. 4.** RCW 46.09.180 and 1977 ex.s. c 220 s 15 are each amended
9 to read as follows:

10 Notwithstanding any of the provisions of this chapter, any city,
11 county, or other political subdivision of this state, or any state
12 agency, may regulate the operation of nonhighway vehicles on public
13 lands, waters, and other properties under its jurisdiction, and on
14 streets, roads, or highways within its boundaries by adopting
15 regulations or ordinances of its governing body, provided such
16 regulations are not less stringent than the provisions of this chapter.
17 However, the legislative body of a city with a population of less than
18 three thousand persons may, by ordinance, designate a street or highway
19 within its boundaries to be suitable for use by off-road vehicles. The
20 legislative body of a county may, by ordinance, designate a road or
21 highway within its boundaries to be suitable for use by off-road
22 vehicles if the road or highway is a direct connection between a city
23 with a population of less than three thousand persons and an off-road
24 vehicle recreation facility.

25 **Sec. 5.** RCW 46.37.010 and 2005 c 213 s 7 are each amended to read
26 as follows:

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

1 forbidden or fail to perform any act required under this chapter or the
2 state patrol's regulations.

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

7 (3) The provisions of the chapter and the state patrol's
8 regulations with respect to equipment on vehicles shall not apply to
9 implements of husbandry, road machinery, road rollers, or farm tractors
10 except as herein made applicable.

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

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

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

22 (7) This chapter does not apply to off-road vehicles used on
23 nonhighway roads or used on streets, roads, or highways as authorized
24 under RCW 46.09.180.

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

28 (9) Notices of traffic infraction issued to commercial drivers
29 under the provisions of this chapter with respect to equipment required
30 on commercial motor vehicles shall not be considered for driver
31 improvement purposes under chapter 46.20 RCW.

32 (10) Whenever a traffic infraction is chargeable to the owner or
33 lessee of a vehicle under subsection (1) of this section, the driver
34 shall not be arrested or issued a notice of traffic infraction unless
35 the vehicle is registered in a jurisdiction other than Washington
36 state, or unless the infraction is for an offense that is clearly
37 within the responsibility of the driver.

1 (11) Whenever the owner or lessee is issued a notice of traffic
2 infraction under this section the court may, on the request of the
3 owner or lessee, take appropriate steps to make the driver of the
4 vehicle, or any other person who directs the loading, maintenance, or
5 operation of the vehicle, a codefendant. If the codefendant is held
6 solely responsible and is found to have committed the traffic
7 infraction, the court may dismiss the notice against the owner or
8 lessee.

9 **Sec. 6.** RCW 4.24.210 and 2003 c 39 s 2 and 2003 c 16 s 2 are each
10 reenacted and amended to read as follows:

11 (1) Except as otherwise provided in subsection (3) or (4) of this
12 section, any public or private landowners or others in lawful
13 possession and control of any lands whether designated resource, rural,
14 or urban, or water areas or channels and lands adjacent to such areas
15 or channels, who allow members of the public to use them for the
16 purposes of outdoor recreation, which term includes, but is not limited
17 to, the cutting, gathering, and removing of firewood by private persons
18 for their personal use without purchasing the firewood from the
19 landowner, hunting, fishing, camping, picnicking, swimming, hiking,
20 bicycling, skateboarding or other nonmotorized wheel-based activities,
21 hanggliding, paragliding, rock climbing, the riding of horses or other
22 animals, clam digging, pleasure driving of off-road vehicles,
23 snowmobiles, and other vehicles, boating, nature study, winter or water
24 sports, viewing or enjoying historical, archaeological, scenic, or
25 scientific sites, without charging a fee of any kind therefor, shall
26 not be liable for unintentional injuries to such users.

27 (2) Except as otherwise provided in subsection (3) or (4) of this
28 section, any public or private landowner or others in lawful possession
29 and control of any lands whether rural or urban, or water areas or
30 channels and lands adjacent to such areas or channels, who offer or
31 allow such land to be used for purposes of a fish or wildlife
32 cooperative project, or allow access to such land for cleanup of litter
33 or other solid waste, shall not be liable for unintentional injuries to
34 any volunteer group or to any other users.

35 (3) Any public or private landowner, or others in lawful possession
36 and control of the land, may charge an administrative fee of up to

1 twenty-five dollars for the cutting, gathering, and removing of
2 firewood from the land.

3 (4) Nothing in this section shall prevent the liability of a
4 landowner or others in lawful possession and control for injuries
5 sustained to users by reason of a known dangerous artificial latent
6 condition for which warning signs have not been conspicuously posted.
7 A fixed anchor used in rock climbing and put in place by someone other
8 than a landowner is not a known dangerous artificial latent condition
9 and a landowner under subsection (1) of this section shall not be
10 liable for unintentional injuries resulting from the condition or use
11 of such an anchor. Nothing in RCW 4.24.200 and (~~4.24.210~~) this
12 section limits or expands in any way the doctrine of attractive
13 nuisance. Usage by members of the public, volunteer groups, or other
14 users is permissive and does not support any claim of adverse
15 possession.

16 (5) For purposes of this section, the following are not fees:

17 (a) A license or permit issued for statewide use under authority of
18 chapter 79A.05 RCW or Title 77 RCW (~~is not a fee~~); and

19 (b) A daily charge not to exceed twenty dollars per person, per
20 day, for access to a publicly owned ORV sports park, as defined in RCW
21 46.09.020, or other public facility accessed by a highway, street, or
22 nonhighway road for the purposes of off-road vehicle use."

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23 On page 1, line 2 of the title, after "roads;" strike the remainder
24 of the title and insert "amending RCW 46.09.115, 46.09.120, 46.09.180,
25 and 46.37.010; and reenacting and amending RCW 46.16.010 and 4.24.210."

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