

**SHB 2658** - S COMM AMD

By Committee on Natural Resources, Ocean & Recreation

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

3 "NEW SECTION. **Sec. 1.** The legislature finds that providing  
4 information to off-road vehicle users about those lands open for off-  
5 road vehicle use will help ease crowding on such lands and decrease  
6 conflicts between off-road vehicle users, landowners, and other  
7 recreational user groups. Therefore, the legislature intends to  
8 provide information to off-road vehicle users about lands available for  
9 off-road vehicle use by creating an ORV data base and by encouraging  
10 landowners to make lands available for off-road vehicle use and to  
11 provide information regarding their lands for inclusion in the data  
12 base.

13 **Sec. 2.** RCW 46.09.250 and 1986 c 206 s 11 are each amended to read  
14 as follows:

15 (1) The ((interagency)) committee ((for outdoor recreation)) shall  
16 maintain a statewide plan which shall be updated at least once every  
17 third biennium and shall be used by all participating agencies to guide  
18 distribution and expenditure of funds under this chapter.

19 (2)(a) The committee shall also maintain:

20 (i) A statewide data base of ORV trails, ORV sports parks, and  
21 other ORV recreation areas open to the general public. The data base  
22 must be based on a geographic information system program and include  
23 all state and federal lands open for public ORV use. The provisions of  
24 RCW 4.24.210(5)(b) apply to publicly owned ORV sports parks or other  
25 public facilities included in the data base. The data base must be  
26 available to the public over the committee's internet web site, along  
27 with links to or information on state and local laws and rules relating  
28 to ORV use, state and local noise standards, and practices for riding  
29 in a safe and considerate manner, and a link to the data base must be

1 created on web sites operated by all state agencies, other than  
2 colleges and universities, that manage recreational land of any nature.

3 The committee shall fund the data base consistent with RCW 46.09.110;

4 (ii) A statewide data base of trails, facilities, and other areas  
5 open to the general public for nonmotorized recreational use. The data  
6 base must be based on a geographic information system program. The  
7 data base must be available to the public over the committee's internet  
8 web site and a link to the data base must be created on web sites  
9 operated by all state agencies, other than colleges and universities,  
10 that manage recreational land of any nature. The committee shall fund  
11 the data base consistent with RCW 46.09.170(2)(d)(ii)(B); and

12 (iii) A statewide data base of campgrounds, facilities, and other  
13 areas open to the general public for nonhighway road recreational use.  
14 The data base must be based on a geographic information system program.  
15 The data base must be available to the public over the committee's  
16 internet web site and a link to the data base must be created on web  
17 sites operated by all state agencies, other than colleges and  
18 universities, that manage recreational land of any nature. The  
19 committee shall fund the data base consistent with RCW  
20 46.09.170(2)(d)(ii)(C).

21 (b) In providing public access to the data bases maintained under  
22 (a) of this subsection, the committee may provide access to multiple  
23 data bases simultaneously or take other such actions in order to  
24 maximize the information available to the public.

25 **Sec. 3.** RCW 46.09.110 and 2004 c 105 s 2 are each amended to read  
26 as follows:

27 The moneys collected by the department under this chapter shall be  
28 distributed from time to time but at least once a year in the following  
29 manner:

30 (1) The department shall retain enough money to cover expenses  
31 incurred in the administration of this chapter(~~(: PROVIDED, That such~~  
32 retention)). However, the money retained for administration shall  
33 never exceed eighteen percent of fees collected.

34 (2) The remaining moneys shall be distributed by the committee for  
35 the ORV data base required by RCW 46.09.250(2)(a)(i) and for ORV  
36 recreation facilities (~~by the interagency committee for outdoor~~  
37 recreation)) in accordance with RCW 46.09.170(2)(d)(ii)(A).

1       **Sec. 4.** RCW 46.09.170 and 2004 c 105 s 6 are each amended to read  
2 as follows:

3       (1) From time to time, but at least once each year, the state  
4 treasurer shall refund from the motor vehicle fund one percent of the  
5 motor vehicle fuel tax revenues collected under chapter 82.36 RCW,  
6 based on a tax rate of: (a) Nineteen cents per gallon of motor vehicle  
7 fuel from July 1, 2003, through June 30, 2005; (b) twenty cents per  
8 gallon of motor vehicle fuel from July 1, 2005, through June 30, 2007;  
9 (c) twenty-one cents per gallon of motor vehicle fuel from July 1,  
10 2007, through June 30, 2009; (d) twenty-two cents per gallon of motor  
11 vehicle fuel from July 1, 2009, through June 30, 2011; and (e) twenty-  
12 three cents per gallon of motor vehicle fuel beginning July 1, 2011,  
13 and thereafter, less proper deductions for refunds and costs of  
14 collection as provided in RCW 46.68.090.

15       (2) The treasurer shall place these funds in the general fund as  
16 follows:

17       (a) Thirty-six percent shall be credited to the ORV and nonhighway  
18 vehicle account and administered by the department of natural resources  
19 solely for acquisition, planning, development, maintenance, and  
20 management of ORV, nonmotorized, and nonhighway road recreation  
21 facilities, and information programs and maintenance of nonhighway  
22 roads;

23       (b) Three and one-half percent shall be credited to the ORV and  
24 nonhighway vehicle account and administered by the department of fish  
25 and wildlife solely for the acquisition, planning, development,  
26 maintenance, and management of ORV, nonmotorized, and nonhighway road  
27 recreation facilities and the maintenance of nonhighway roads;

28       (c) Two percent shall be credited to the ORV and nonhighway vehicle  
29 account and administered by the parks and recreation commission solely  
30 for the acquisition, planning, development, maintenance, and management  
31 of ORV, nonmotorized, and nonhighway road recreation facilities; and

32       (d) Fifty-eight and one-half percent shall be credited to the  
33 nonhighway and off-road vehicle activities program account to be  
34 administered by the committee for the purposes of RCW 46.09.250(2)(a)  
35 (ii) and (iii) and for planning, acquisition, development, maintenance,  
36 and management of ORV, nonmotorized, and nonhighway road recreation  
37 facilities and for education, information, and law enforcement

1 programs. The funds under this subsection shall be expended in  
2 accordance with the following limitations:

3 (i) Not more than thirty percent may be expended for education,  
4 information, and law enforcement programs under this chapter;

5 (ii) Not less than seventy percent may be expended for the purposes  
6 of RCW 46.09.250(2)(a) (ii) and (iii) and for ORV, nonmotorized, and  
7 nonhighway road recreation facilities. Except as provided in (d)(iii)  
8 of this subsection, of this amount:

9 (A) Not less than thirty percent, together with the funds the  
10 committee receives under RCW 46.09.110, may be expended for ORV  
11 recreation facilities;

12 (B) Not less than thirty percent may be expended for the purposes  
13 of RCW 46.09.250(2)(a)(ii) and for nonmotorized recreation facilities.  
14 Funds expended under this subsection (2)(d)(ii)(B) shall be known as  
15 Ira Spring outdoor recreation facilities funds; and

16 (C) Not less than thirty percent may be expended for the purposes  
17 of RCW 46.09.250(2)(a)(iii) and for nonhighway road recreation  
18 facilities;

19 (iii) The committee may waive the minimum percentage cited in  
20 (d)(ii) of this subsection due to insufficient requests for funds or  
21 projects that score low in the committee's project evaluation. Funds  
22 remaining after such a waiver must be allocated in accordance with  
23 committee policy.

24 (3) On a yearly basis an agency may not, except as provided in RCW  
25 46.09.110, expend more than ten percent of the funds it receives under  
26 this chapter for general administration expenses incurred in carrying  
27 out this chapter.

28 (4) During the 2003-05 fiscal biennium, the legislature may  
29 appropriate such amounts as reflect the excess fund balance in the NOVA  
30 account to the interagency committee for outdoor recreation, the  
31 department of natural resources, the department of fish and wildlife,  
32 and the state parks and recreation commission. This appropriation is  
33 not required to follow the specific distribution specified in  
34 subsection (2) of this section.

35 **Sec. 5.** RCW 4.24.210 and 2003 c 39 s 2 and 2003 c 16 s 2 are each  
36 reenacted and amended to read as follows:

37 (1) Except as otherwise provided in subsection (3) or (4) of this

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

16 (2) Except as otherwise provided in subsection (3) or (4) of this  
17 section, any public or private landowner or others in lawful possession  
18 and control of any lands whether rural or urban, or water areas or  
19 channels and lands adjacent to such areas or channels, who offer or  
20 allow such land to be used for purposes of a fish or wildlife  
21 cooperative project, or allow access to such land for cleanup of litter  
22 or other solid waste, shall not be liable for unintentional injuries to  
23 any volunteer group or to any other users.

24 (3) Any public or private landowner, or others in lawful possession  
25 and control of the land, may charge an administrative fee of up to  
26 twenty-five dollars for the cutting, gathering, and removing of  
27 firewood from the land.

28 (4) Nothing in this section shall prevent the liability of a  
29 landowner or others in lawful possession and control for injuries  
30 sustained to users by reason of a known dangerous artificial latent  
31 condition for which warning signs have not been conspicuously posted.  
32 A fixed anchor used in rock climbing and put in place by someone other  
33 than a landowner is not a known dangerous artificial latent condition  
34 and a landowner under subsection (1) of this section shall not be  
35 liable for unintentional injuries resulting from the condition or use  
36 of such an anchor. Nothing in RCW 4.24.200 and (~~4.24.210~~) this  
37 section limits or expands in any way the doctrine of attractive

1 nuisance. Usage by members of the public, volunteer groups, or other  
2 users is permissive and does not support any claim of adverse  
3 possession.

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

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

7 (b) A daily charge not to exceed twenty dollars per person, per  
8 day, for access to a publicly owned ORV sports park, as defined in RCW  
9 46.09.020, or other public facility for the purposes of off-road  
10 vehicle use, including such public parks or facilities included in the  
11 ORV data base created in RCW 46.09.250.

12 NEW SECTION. Sec. 6. (1) The interagency committee for outdoor  
13 recreation shall convene a working group to develop and propose policy  
14 strategies and legislation to address issues relating to access to  
15 public and private lands for recreational off-road vehicle use,  
16 including:

17 (a) Proposals to improve recreational off-road vehicle use  
18 opportunities on public lands where such use is compatible with other  
19 types of recreation and the environmental, habitat, and trust  
20 responsibilities of the department of natural resources and other  
21 public land managers, and to decrease use where it is not compatible;

22 (b) Proposals for addressing the conflicts and safety issues posed  
23 by the growing pressure on public and private lands available for  
24 recreational off-road vehicle use, including noise issues and any  
25 recommended changes to the recreational use immunity statute, RCW  
26 4.24.210; and

27 (c) Proposals to ensure the existence of the financial resources  
28 necessary to provide access to appropriate public lands for  
29 recreational off-road vehicle use, including funding for agency  
30 planning and management activities, land stewardship and trail  
31 maintenance, noise control, and education and enforcement programs.

32 (2) The working group consists of the following:

33 (a) One member from the department of natural resources, appointed  
34 by the commissioner of public lands;

35 (b) One member from the department of fish and wildlife, appointed  
36 by the director of the department of fish and wildlife;

1 (c) One member from the state parks and recreation commission,  
2 appointed by the director of the state parks and recreation commission;

3 (d) One member from the interagency committee for outdoor  
4 recreation, appointed by the director of the interagency committee for  
5 outdoor recreation;

6 (e) Two members representing county governments, one county  
7 commissioner each from an urban and a rural county, invited by the  
8 governor;

9 (f) One member representing the United States forest service,  
10 invited by the governor;

11 (g) Two members representing off-road vehicle recreational user  
12 groups, invited by the governor;

13 (h) One member representing private land managers, invited by the  
14 governor;

15 (i) One member representing the off-road vehicle industry, invited  
16 by the governor;

17 (j) A representative of local law enforcement, selected by the  
18 Washington association of sheriffs and police chiefs;

19 (k) Two members representing nonmotorized outdoor recreation,  
20 invited by the governor;

21 (l) One representative of an environmental organization, invited by  
22 the governor; and

23 (m) One representative of the department of ecology, appointed by  
24 the director of ecology.

25 (3) Two members of the house of representatives, one from each  
26 major caucus, may be appointed to the working group by the speaker of  
27 the house of representatives, and two members of the senate, one from  
28 each major caucus, may be appointed to the working group by the  
29 president of the senate. Legislative members are nonvoting liaisons  
30 representing the legislature.

31 (4) In carrying out its duties, the working group shall provide a  
32 forum for interested citizens and organizations to provide information  
33 and suggestions to the working group.

34 (5) The working group shall deliberate together in developing its  
35 recommendations. The working group shall issue a report and it may  
36 contain majority reports and minority reports. The report must be  
37 provided to the governor and legislature by December 1, 2007.

38 (6) This section expires June 30, 2008.

1        NEW SECTION.    **Sec. 7.** If specific funding for the purposes of  
2 section 6 of this act, referencing section 6 of this act by bill or  
3 chapter number and section number, is not provided by June 30, 2006, in  
4 the omnibus appropriations act, section 6 of this act is null and  
5 void."

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By Committee on Natural Resources, Ocean & Recreation

6        On page 1, line 1 of the title, after "Relating to" strike the  
7 remainder of the title and insert "nonhighway and off-road vehicle  
8 recreation; amending RCW 46.09.250, 46.09.110, and 46.09.170;  
9 reenacting and amending RCW 4.24.210; creating new sections; and  
10 providing an expiration date."

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