

SENATE BILL REPORT

SHB 2658

As Reported By Senate Committee On:
Natural Resources, Ocean & Recreation, February 23, 2006

Title: An act relating to a statewide off-road vehicle data base.

Brief Description: Establishing a statewide ORV data base.

Sponsors: House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives Hinkle, B. Sullivan, Condotta and Kretz).

Brief History: Passed House: 2/11/06, 95-0.

Committee Activity: Natural Resources, Ocean & Recreation: 2/20/06, 2/23/06 [DPA-WM].

SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Jacobsen, Chair; Doumit, Vice Chair; Oke, Ranking Minority Member; Fraser, Hargrove, Morton, Spanel, Stevens and Swecker.

Staff: Curt Gavigan (786-7437)

Background: An off-road vehicle (ORV) use permit is required to operate an ORV within the state. ORV users must apply for use permits from the Department of Licensing (DOL), which are valid for one year and cost \$18. Temporary use permits are also available at a cost of \$7 and are valid for 60 days.

After subtracting its expenses, the moneys collected by the DOL from ORV use permits are transferred to the nonhighway and off-road vehicle activities (NOVA) program for use specifically for ORV recreational facilities. The NOVA program, which is primarily funded by fuel tax refunds, is administered by the Interagency for Outdoor Recreation (IAC) and provides moneys to support nonhighway recreational opportunities including ORV, equestrian, hiking, bicycling, and various dispersed recreational opportunities.

Under the NOVA program, the term nonhighway road means any road owned or managed by a public agency, or a private road for which the owner has granted an easement for public use, that was not recently built or maintained using moneys from the motor vehicle fund. The term nonmotorized recreational user refers to those who consume fuel on a nonhighway road for such purposes as walking, hiking, skiing or horseback riding. The term nonhighway road recreational user refers to those who consume fuel on a nonhighway road for such purposes as hunting, fishing, camping, or sightseeing.

The purpose of the recreation use immunity statute is to encourage owners or those in lawful possession and control of land and water areas to make those areas accessible to the public for recreational purposes by limiting their liability. Those protected by limited liability under the

recreation use immunity statute are landowners or others in lawful possession and control of land who: (1) allow recreational use of their land without charging a fee of any kind; (2) allow fish and wildlife cooperative projects or litter or waste cleanup on their land; or (3) allow the cutting, gathering, and removing of firewood from the land, even where charging an administrative fee of up to \$25. A license or permit issued for statewide use under the fish and wildlife or recreational lands statutes is not considered a fee for purposes of the recreation use immunity statute. The recreation use immunity statute does not prevent liability where an injury results from a known, dangerous, artificial, and latent condition for which warning signs have not been conspicuously posted

Summary of Amended Bill: When the IAC receives moneys from the DOL from ORV use permits, the IAC must distribute such moneys for the purposes of ORV recreational facilities as well as for the creation and maintenance of an ORV database. The ORV database must include ORV trails, ORV sports parks, and other ORV recreation areas open to the general public. The database must be based on a geographic information system (GIS) program.

The ORV database must be available to the public over the IAC's internet site. Along with the data base, the internet site must provide links to or information on state and local laws and rules relating to ORV use, noise standards, and safe and considerate riding practices. State agencies that manage recreational lands, other than colleges and universities, must also include a link to the database on their internet sites.

Statewide data bases must also be created for nonmotorized and nonhighway road recreational areas open to the general public. Like the ORV data base, these data bases must be based on a GIS program and made available on the internet sites of the IAC and other state agencies that manage recreational lands. Funding for these data bases comes from fuel tax refund moneys designated under statute for the purposes of nonmotorized and nonhighway road recreation under the NOVA program.

A daily charge not to exceed \$20 per person, per day, for access to a publicly owned ORV sports park or other public facility for the purposes of ORV use, including such areas included in the ORV data base, is not considered a fee for the purposes of the recreation use immunity statute.

A work group is formed in the IAC, subject to the appropriation of specific funding for the work group, to develop and propose policy strategies and legislation to address issues relating to access to public and private lands for recreational ORV use, including conflicting agency responsibilities, user conflicts, liability, and noise issues. Recommendations to the Governor and Legislature are due by December 1, 2007.

Amended Bill Compared to Original Bill: The amended bill adds language creating data bases concerning lands open to the general public for nonmotorized and nonhighway road recreational use; requires that certain ORV related information be provided to the public along with the ORV data base; adds language regarding limited liability for injuries occurring on certain publicly owned ORV sports parks and facilities; and creates a work group to look at issues surrounding access to public and private lands for ORV recreation.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: Yes.

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

Testimony For: The goal of this bill is to create accessible maps for ORV users so that they are aware of those lands available for riding. Such trails are used by other user groups as well, including horseback riders. This database would also help public land managers make their land use decisions clear. The moneys for this database will come from ORV use permits, so the users themselves will pay.

Testimony Against: None.

Who Testified: PRO: Jeff Chapman, Backcountry Horsemen of Washington; Barb Anderson, WOHVA, SMC; Pat Halstead, Washington State Motorsports Dealers' Association; Bonnie Bunning, DNR; Jim Fox, IAC.