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**HOUSE BILL 2756**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Representatives Blake, Kretz, Chapman, Steele, Condotta, Wilcox, Dent, Eslick, and Shea

AN ACT Relating to a pilot program to provide wheeled all-terrain vehicle tourism routes; amending RCW 46.09.455 and 46.09.540; adding a new section to chapter 46.09 RCW; creating a new section; providing an effective date; providing expiration dates; and providing a contingent expiration date.

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

NEW SECTION. **Sec.**  A new section is added to chapter 46.09 RCW to read as follows:

(1) The legislature declares that wheeled all-terrain vehicle tourism routes would enhance appreciation of the outdoors and generate economic benefits, particularly in rural and less urban areas of the state. The legislature therefore intends to provide the authority for a limited number of wheeled all-terrain vehicle tourism routes on a pilot basis, subject to the conditions of this section.

(2) Wheeled all-terrain vehicles may be operated on tourism routes on a pilot basis provided all conditions in this section are met.

(3) For the purposes of this section, a "wheeled all-terrain vehicle tourism route" or "tourism route" means a highway, road, trail, or other similar facility, or a combination thereof, upon which on-road wheeled all-terrain vehicles may travel on a pilot basis under the rules provided in subsection (5) of this section, if the conditions in subsection (7) of this section are met. A tourism route:

(a) May consist of segments of state highways, segments of park roads or other nonhighway roads under state jurisdiction, segments of highways or roads under local government jurisdiction, segments of highways or roads under federal jurisdiction, segments of private roads, or segments of trails currently authorized for motorized vehicles;

(b) Need not be contiguous but must otherwise exhibit a continuity analogous to other highway or county road routes within the county or neighboring counties in which it is located; and

(c) May not include any segment of a highway that is an interstate highway.

(4) For the purposes of the pilot under this section, the following counties are eligible to designate tourism routes under subsection (7) of this section: Okanogan, Chelan, Kittitas, Grays Harbor, Pierce, and Lewis. A county that is immediately adjacent to an eligible county under this subsection may contain a segment or segments of a tourism route designated by the eligible county under subsection (7) of this section.

(5) The driver of a wheeled all-terrain vehicle with an on-road vehicle registration pursuant to RCW 46.09.442, provided the requirements of RCW 46.09.457 are satisfied, may operate the vehicle on a tourism route under the following conditions:

(a) The driver may not exceed the lesser of:

(i) The posted speed limit; or

(ii)(A) Fifty miles per hour, if the vehicle possesses independent-suspension axle drives; or

(B) Thirty-five miles per hour, if the vehicle possesses a single axle drive.

(b) When on a highway with a posted speed limit greater than fifty miles per hour, the driver must operate the vehicle on the far right of the roadway.

(c) The vehicle must have properly functioning hydraulic brakes, tires approved by the United States department of transportation, and, with respect to a vehicle being driven on any facility segment with a posted speed limit in excess of thirty-five miles per hour, independent-suspension axle drives.

(d) The driver must have liability insurance or an equivalent form of financial responsibility.

(6) Before proposing a combination of highway, road, trail, or other designated segments as a tourism route, a county is encouraged to form a stakeholder group for the purposes of identifying potential tourism routes that would enhance travel tourism. It is recommended that such a group include the following stakeholders: Representatives of local, state, and federal government, and individual landowners who control land in which the segments are located or whom the tourism route would impact, as well as recreational nonprofit groups who advocate or promote the use of recreational wheeled all-terrain vehicles. The department of natural resources, department of fish and wildlife, and parks and recreation commission are directed to provide support to and to participate in such stakeholder groups, as requested by the county proposing a tourism route.

(7) For a highway, road, trail, or other similar facility, or a combination thereof, to qualify as a tourism route under subsection (3) of this section, the following requirements must be met:

(a) A county that contains the proposed tourism route must designate highways, roads, trails, or other such facilities, either in whole or in segments, as a tourism route.

(b) If a portion of the proposed tourism route includes roadway or other designated segments in cities, towns, neighboring counties, on state lands or sites owned or managed by the department of natural resources, the department of fish and wildlife, or the state parks and recreation commission, on federal lands, or on private property, the county must enter into an agreement with the jurisdiction or other controlling entity of that segment, in which the jurisdiction or other controlling entity authorizes the use of the roadway segment as part of the tourism route, in order for that segment to become part of the tourism route. With regard to segments of the proposed tourism route under the jurisdiction of the United States forest service, the county must coordinate with the forest service according to 36 C.F.R. Sec. 212.53 and is subject to C.F.R. parts 212, 251, 261, and 295 and policies derived therefrom. If no agreement is reached with the governmental jurisdiction or private landowner under the terms of this subsection, the proposed tourism route, exclusive of the segment that passes through the city, town, neighboring county, state land, federal land, or private property, may still qualify as a tourism route. As part of the agreement, each jurisdiction or controlling entity must commit to erecting route and traffic safety signage for the purposes of the route and its users in compliance with RCW 47.36.030 prior to the opening of the tourism route.

(8) The roadway or other designated segments included in a tourism route may be modified by county action subsequent to the initial designation of the tourism route provided subsection (7)(b) of this section is satisfied for any new roadway segment incorporated into the tourism route.

(9) By December 31, 2020, any county that has designated a tourism route under the pilot program authorized by this section must provide a report to the governor and the transportation committees of the legislature. The report, at a minimum, must include a description of the process by which the tourism route was established under the pilot, including any agreements that were undertaken with other stakeholders; a description of how the route was utilized; and an analysis of the benefits to local tourism and the economy in the county.

**Sec.**  RCW 46.09.455 and 2017 c 26 s 1 are each amended to read as follows:

(1) A person may operate a wheeled all-terrain vehicle upon any public roadway of this state((~~, not including nonhighway roads and trails,~~)) having a speed limit of thirty-five miles per hour or less or if the roadway segment is part of a tourism route created under the pilot program authorized in section 1 of this act, subject to the following restrictions and requirements:

(a) A person may not operate a wheeled all-terrain vehicle upon state highways that are listed in chapter 47.17 RCW; however, a person may operate a wheeled all-terrain vehicle upon a segment of a state highway listed in chapter 47.17 RCW if the segment:

(i) Is within the limits of a city or town and the speed limit on the segment is thirty-five miles per hour or less; or

(ii) Is part of a tourism route as created under the pilot program authorized in section 1 of this act;

(b)(i) A person operating a wheeled all-terrain vehicle may not cross a public roadway((~~, not including nonhighway roads and trails~~)), as defined in RCW 46.04.500, with a speed limit in excess of thirty-five miles per hour, except as follows: A person operating a wheeled all-terrain vehicle may cross a public roadway with a speed limit of sixty miles per hour or less, but more than thirty-five miles per hour, at an intersection of approximately ninety degrees if the roadway that intersects the public roadway with a speed limit of sixty miles per hour or less, but more than thirty-five miles per hour, is a roadway upon which the operation of wheeled all-terrain vehicles has been approved or is otherwise allowed under this section.

(ii) A county, city, or town may by ordinance prohibit a person operating a wheeled all-terrain vehicle from crossing a public roadway with a speed limit of sixty miles per hour or less, but more than thirty-five miles per hour, at specific intersections or along the entirety of the route within the jurisdiction.

(iii) The operator of a wheeled all-terrain vehicle may not cross at an uncontrolled intersection of a public highway listed under chapter 47.17 RCW;

(c)(i) A person may not operate a wheeled all-terrain vehicle on a public roadway within the boundaries of a county((~~, not including nonhighway roads and trails,~~)) with a population of fifteen thousand or more unless the county by ordinance has approved the operation of wheeled all-terrain vehicles on county roadways((~~, not including nonhighway roads and trails~~)).

(ii) The legislative body of a county with a population of fewer than fifteen thousand may, by ordinance, designate roadways or highways within its boundaries to be unsuitable for use by wheeled all-terrain vehicles.

(iii) Any public roadways((~~, not including nonhighway roads and trails,~~)) authorized by a legislative body of a county under (c)(i) of this subsection or designated as unsuitable under (c)(ii) of this subsection must be listed publicly and made accessible from the main page of the county web site.

(iv) This subsection (1)(c) does not affect any roadway that was designated as open or closed as of January 1, 2013;

(d)(i) A person may not operate a wheeled all-terrain vehicle on a public roadway within the boundaries of a city or town((~~, not including nonhighway roads and trails,~~)) unless the city or town by ordinance has approved the operation of wheeled all-terrain vehicles on city or town roadways((~~, not including nonhighway roads and trails~~)).

(ii) Any public roadways((~~, not including nonhighway roads and trails,~~)) authorized by a legislative body of a city or town under (d)(i) of this subsection must be listed publicly and made accessible from the main page of the city or town web site.

(iii) This subsection (1)(d) does not affect any roadway that was designated as open or closed as of January 1, 2013;

(e) Any person who violates this subsection commits a traffic infraction.

(2) Local authorities may not establish requirements for the registration of wheeled all-terrain vehicles.

(3) A person may operate a wheeled all-terrain vehicle upon any public roadway, trail, nonhighway road, or highway within the state while being used under the authority or direction of an appropriate agency that engages in emergency management, as defined in RCW 46.09.310, or search and rescue, as defined in RCW 38.52.010, or a law enforcement agency, as defined in RCW 16.52.011, within the scope of the agency's official duties.

(4) A wheeled all-terrain vehicle is an off-road vehicle for the purposes of chapter 4.24 RCW.

(5) For the purposes of this section, "public roadways" excludes nonhighway roads and trails.

**Sec.**  RCW 46.09.540 and 2013 2nd sp.s. c 23 s 10 are each amended to read as follows:

(1) The multiuse roadway safety account is created in the motor vehicle fund. All receipts from vehicle license fees under RCW 46.17.350(1)(r) must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for grants administered by the department of transportation to:

(a) Counties to perform safety engineering analysis of mixed vehicle use on any road within a county;

(b) Local governments to provide funding to erect signs providing notice to the motoring public that (i) wheeled all-terrain vehicles are present or (ii) wheeled all-terrain vehicles may be crossing;

(c) The state patrol or local law enforcement for purposes of defraying the costs of enforcement of chapter 23, Laws of 2013 2nd sp. sess.; ((~~and~~))

(d) Law enforcement to investigate accidents involving wheeled all-terrain vehicles;

(e) Counties of population fifty thousand or less for the purposes of mapping and printing promotional materials related to wheeled all-terrain vehicle tourism routes created under the pilot program authorized in section 1 of this act; and

(f) Provide matching amounts to local jurisdictions that have set aside funds for the purposes of promoting wheeled all-terrain vehicle tourism routes created under the pilot program authorized in section 1 of this act.

(2) The department of transportation must prioritize grant awards in the following priority order:

(a) For the purpose of marking highway crossings with signs warning motorists that wheeled all-terrain vehicles may be crossing when an ORV recreation facility parking lot is on the other side of a public roadway from the actual ORV recreation facility; and

(b) For the purpose of marking intersections with signs where a wheeled all-terrain vehicle may cross a public road to advise motorists of the upcoming intersection. Such signs must conform to the manual on uniform traffic control devices.

NEW SECTION. **Sec.**  This act takes effect July 1, 2018.

NEW SECTION. **Sec.**  Sections 2 and 3 of this act expire July 1, 2021.

NEW SECTION. **Sec.**  (1) During the 2021 legislative session, the legislature shall review the reports provided under section 1(9) of this act and consider whether to extend the program or to make the program permanent, including whether to expand the program to allow other counties to participate and to designate new routes. Section 1 of this act expires July 1, 2021, if legislative action is not taken by July 1, 2021.

(2) The department of transportation must provide written notice to the code reviser's office and others as deemed appropriate by the department, if legislative action is not taken.

**--- END ---**