

HOUSE BILL REPORT

HB 1446

As Reported by House Committee On: Transportation

Title: An act relating to registration enforcement for off-road vehicles and snowmobiles.

Brief Description: Concerning registration enforcement for off-road vehicles and snowmobiles.

Sponsors: Representatives Blake, Condotta, Orcutt and Muri.

Brief History:

Committee Activity:

Transportation: 2/2/17, 2/15/17 [DPS].

Brief Summary of Substitute Bill

- Requires manufacturers of off-road vehicles (ORVs) and snowmobiles to report annually to the Department of Licensing (DOL) a listing of all warranties of such vehicles sold to Washington residents by out-of-state dealers in the previous calendar year.
- Requires the DOL to examine the listing provided by the manufacturers of ORVs and snowmobiles and to notify any owner whose vehicle is not properly registered in Washington of the owner's obligations under state law, as well as the penalties for noncompliance.
- Makes it a gross misdemeanor to knowingly fail to register an ORV or snowmobile, or to knowingly fail to apply for a certificate of title for an ORV, within 15 days of notification from the DOL that the vehicle is not properly registered and/or titled in Washington.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 25 members: Representatives Clibborn, Chair; Farrell, Vice Chair; Fey, Vice Chair; Wylie, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Harmsworth, Assistant Ranking Minority Member; Chapman, Gregerson, Hayes, Irwin, Kloba, Lovick, McBride, Morris, Ortiz-Self, Pellicciotti, Pike, Riccelli, Rodne, Shea, Stambaugh, Tarleton, Van Werven and Young.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Mark Matteson (786-7145).

Background:

Off-Road Vehicles.

Off-road vehicles (ORVs) are vehicles that are used for recreational purposes on nonhighway roads, trails, and other natural terrain. Off-road vehicles include all-terrain vehicles (ATVs), certain motorcycles, dune buggies, and certain four-wheel drive vehicles. An owner of an ORV who is a Washington resident must apply for a certificate of title for the vehicle after purchasing it in Washington or bringing the vehicle to the state for the first time. Among other things, the Department of Licensing (DOL) requires for titling purposes the manufacturer's statement or certificate of origin, an official document from the manufacturer that indicates: the country of origin; the first conveyance of the vehicle after its manufacture; the model year; the make; an indication that the vehicle was not manufactured for on-road use; and several other pieces of information. At the time of application for title, the DOL will also require the owner to pay state and local use tax on the vehicle, based on the selling price, if the owner has not already paid sales tax on the vehicle at the time of purchase.

An owner of an ORV that wishes to operate the vehicle in the state must first register the vehicle with the DOL and pay a fee of \$18. The DOL will issue a decal to the owner of an ORV, except for the owner of a wheeled ATV to whom the DOL will issue a metal tag. The decal or metal tag serves the same function as a license plate for on-road vehicles within Washington and, for states that have reciprocal laws governing out-of-state ORVs, allows the owner to operate the vehicle in that state. The penalty for a resident that operates an ORV without proper registration is a traffic infraction, with a fine of at least \$25.

An out-of-state owner of an ORV that is properly registered or permitted in another state may operate the vehicle in Washington if the other state has a reciprocal law that allows out-of-state residents with properly registered or permitted vehicles to operate there.

Snowmobiles.

Snowmobiles are self-propelled vehicles capable of traveling over snow and ice. Washington residents who purchase or bring in snowmobiles to the state are not required to apply for a certificate of title. However, like with ORVs that are purchased without sales tax, use tax is due when the vehicle is acquired or first brought into the state.

An owner must register the vehicle with the DOL before operating it and pay a \$50 fee. Upon receipt of payment, the DOL will issue the applicant a decal, which must be affixed to the right or left side of the snowmobile below the windshield. The decal serves the same function as a license plate for on-road vehicles within Washington and, for states that have reciprocal laws governing out-of-state snowmobiles, allows the owner to operate the vehicle in that state. The penalty for a resident that operates a snowmobile and fails to properly display the registration decal is a traffic infraction, with a fine of at least \$40.

Like with ORVs, an out-of-state owner of a snowmobile that is properly registered or permitted in another state may operate the vehicle in Washington if the other state has a

reciprocal law that allows out-of-state residents with properly registered or permitted vehicles to operate there.

Motorsport Vehicle Manufacturers.

State law regulates the franchise relationship between motorsport vehicle manufacturers and dealers. A motorsport vehicle is an umbrella term that includes motorcycles, mopeds, motor-driven cycles, personal watercraft, snowmobiles, and four-wheeled ATVs. Among the regulatory provisions are requirements concerning warranty work conducted by dealers and the manufacturers' responsibilities to compensate for such work.

Summary of Substitute Bill:

Beginning in 2018, motorsports vehicle manufacturers are required to report annually to the DOL by the first business day in February a listing of all warranties for ORVs and snowmobiles that were sold to Washington residents by out-of-state dealers in the previous calendar year. Failure to report a complete listing results in an administrative fine of \$100 per day for each day that the DOL has not received the report. The State Treasurer must deposit any fines received in the ORV and Nonhighway Vehicle Account and the Snowmobile Account in proportion to the number of ORV and snowmobile registrations in the previous calendar year.

The DOL must examine the warranties listing provided by motorsports vehicle manufacturers to verify whether the vehicles are properly registered. By the end of February of each year, the DOL must notify the owner of the warranty of any ORV or snowmobile that is not properly registered of the owner's obligations under state law, as well as the penalties for failure to comply with the law. Notification must be by certified mail, with return receipt requested.

It is a gross misdemeanor to knowingly fail to register an ORV or a snowmobile, or to knowingly fail to apply for a certificate of title for an ORV, within 15 days of receiving or refusing a notice issued by the DOL that the vehicle is not properly registered in the state.

Substitute Bill Compared to Original Bill:

The substitute bill:

- changes the day upon which the DOL must receive the manufacturer's report of the listing of warranties from the last business day in January to the first business day in February;
- adds an administrative fine of \$100 per day assessed to any manufacturer that fails to submit the required listing of warranties to the DOL by the due date;
- directs the State Treasurer to deposit the fines to the ORV and Nonhighway Vehicle Account and to the Snowmobile Account in proportion to the number of ORV and snowmobile registrations in the preceding calendar year;
- clarifies, regarding the requirement to notify purchasers of warranties of improperly registered ORVs and snowmobiles of their obligations under state law, that the DOL

- is only required to send notification to the extent it receives listings of warranties from manufacturers;
- modifies, with respect to ORVs, the action that creates a gross misdemeanor, from registering a vehicle in another state or holding a manufacturer's statement of origin and not applying for a certificate of title within 15 days of bringing the vehicle to Washington, to knowingly failing to apply for a certificate of title, or to knowingly failing to register the vehicle, within 15 days of receiving or refusing a notice from the DOL that the vehicle is not properly registered under state law; and
 - modifies, with respect to snowmobiles, the action that creates a gross misdemeanor, from registering a vehicle in another state or holding a manufacturer's statement of origin and not applying for a certificate of title within 15 days of bringing the vehicle to Washington, to knowingly failing to register the vehicle within 15 days of receiving or refusing a notice from the DOL that the vehicle is not properly registered under state law.
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Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect August 1, 2017.

Staff Summary of Public Testimony:

(In support) A level playing field with respect to the regulation of ORVs and snowmobiles is required for our dealers. This problem started to show its face in the 1980s. The price of these vehicles has now gone up so much. There is a huge incentive to purchase these vehicles out of state. The in-state dealers are not very healthy now. All the dealers took a beating during the recession. Closing the loophole would be a benefit not only to them but to the state budgets in general.

This bill is long overdue. This should correct the annual loss of tax revenue, as well as the oversight problems. The State Motorsports Dealers Association took considerable time to consider the agencies and stakeholders involved, as well as the reciprocity program, which allows users from another state like Oregon to come and recreate here. However, the reciprocity program is being abused. Dealers in Oregon are allowing Washington residents to buy and permit the vehicles down there, which means people can avoid Washington taxes and fees.

Many Thurston County residents go to Oregon to buy ORVs, including side-by-sides, which are like dune buggies. These can cost more than \$20,000. In Thurston County, 38 percent of one brand, Polaris, was purchased in Oregon. Dealers are asking the committee to close the loophole when titling ORVs. A copy of the manufacturer's statement of origin is being circulated—this is the document that buyers hold in lieu of a title when they avoid the use tax. Many times, buyers transfer this to a new buyer when the vehicle is sold second-hand. So it means sales tax is not paid twice. Washington residents can ride in Washington with an Oregon ORV sticker purchased from an Oregon dealer or from an Oregon website. The

amount of lost revenue is tremendous—the number of units purchased outside the state could sustain a very large dealership here. There is a lot of sales tax revenue that is not being collected. It is always the sum of the small things that make a difference to the bottom line. The Dealer's Association tried to keep the bill fair and balanced. There are plenty of Oregon residents that come here. The bill was crafted carefully to not upset the reciprocity agreement.

It is now a widely known fact that people can go down to Oregon and buy a vehicle and get it permitted there and have the dealer mail them a nonresident title. Pro Caliber Motorsports in Longview in 1995 sold over 1,000 units, with ORVs representing more than half of that number. In 2015, before the Longview location closed, the business sold about 350 units, and those were all street-legal motorcycles—no ORVs.

(Opposed) None.

(Other) The DOL recognizes that compliance with state laws on registration and use tax has been an issue. The DOL has been working with the advocates and think that this bill, with a few adjustments, is workable.

Persons Testifying: (In support) Representative Blake, prime sponsor; James Boltz, Washington State Motorsports Dealers Association; Vicki Gray, Washington Off Highway Vehicle Alliance & South Sound Honda; and John Jabusch, Pro Caliber Motorsports.

(Other) Tony Sermonti, Department of Licensing.

Persons Signed In To Testify But Not Testifying: None.