

SENATE BILL REPORT

ESSB 5338

As Amended by House, April 5, 2017

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: Senate Committee on Transportation (originally sponsored by Senators Wilson and Takko).

Brief History:

Committee Activity: Transportation: 2/06/17, 2/13/17 [DPS].

Floor Activity:

Passed Senate: 2/27/17, 49-0.

Passed House: 4/05/17, 92-5.

Brief Summary of Engrossed First 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.

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: That Substitute Senate Bill No. 5338 be substituted therefor, and the substitute bill do pass.

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.

Signed by Senators King, Chair; Sheldon, Vice Chair; Hobbs, Ranking Minority Member; Lias, Assistant Ranking Minority Member; Cleveland, Hawkins, O'Ban, Saldaña, Takko, Van De Wege, Walsh and Wilson.

Staff: Kellee Keegan (786-7429)

Background: Off-Road Vehicles. Off-road vehicles (ORVs) are vehicles that are used for recreational purposes on nonhighway roads, trails, and other natural terrain. To drive an off-road vehicle (ORV) in the state of Washington a person must either title and register their ORV or, if a nonresident, pay for a temporary ORV use permit with the Department of Licensing (DOL). A temporary use permit is valid for 60 days and must be carried on the vehicle at all times during its operation in this state. To receive a title on an ORV the following may be needed:

- 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 may be needed.

At the time of application of 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. After titling and registration, the DOL must then issue the ORV decals and an ORV registration.

It is a traffic infraction if a person operates an ORV in a way that endangers property or that is not in line with the lawful equipment description of an ORV as outlined in Washington state law. A person who operates a nonhighway vehicle in a way that endangers human life, or in a way to harass any wildlife or animal, is guilty of a gross misdemeanor.

Off-road vehicle registrations and decals are not required for those that are:

- owned and operated by the United States, another state, or a political subdivision;
- owned and operated by this state, a municipality, or a political subdivision of this state or the municipality;
- operated on and across agricultural and timberlands owned, leased, or managed by the off-road vehicle owner or operator or operator's employer;
- off-road vehicles owned by a resident of another state that have a valid ORV use permit or vehicle registration issued in accordance with the laws of the other state;
- off-road vehicles while being used for emergency management purposes under the authority or direction of an appropriate agency that engages in emergency management;
- regularly registered vehicles; or
- off-road vehicles operated by persons who, in good faith, render emergency care or assistance with respect to an incident involving off-road vehicles.

The application for an original or renewal ORV registration has the same requirements as vehicles and must be accompanied by the annual off-road vehicle license fee. The ORV registration is valid for one year. A person has 15 days after taking possession of the ORV to transfer the title and registration.

Snowmobiles. Snowmobiles are self-propelled vehicles capable of traveling over snow and ice. No title is required of Washington residents who purchase or bring in snowmobiles to the state. 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. To operate a snowmobile in the state of Washington the owner must register with the DOL. There is no fee for snowmobile decals used by the state of Washington, or a Washington State a municipality, or a political subdivision. An application for a nonresident temporary snowmobile permit must be made to the DOL for those who are not residents of the state of Washington but wish to drive their snowmobile in this state. Nonresident snowmobile permits are available to residents of Canada or another state where registration is not required, are valid for not more than 60 days and must be carried on the snowmobile at all times during operation in this state.

A snowmobile registration is not required if:

- the snowmobile is owned or operated by the United States, another state, or a political subdivision; or
- the snowmobile is owned and registered by a resident of another state or Canadian in that state or province and that state or province has a similar exemption or privilege.

A snowmobile that is validly registered in another state or province and is physically located in this state for more than 15 consecutive days is subject to registration. The snowmobile registration is valid for one year.

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 Engrossed First Substitute Bill: Beginning in February 2018, motorsports vehicle manufacturers are required to report annually to the DOL a listing of all warranties for ORVs and snowmobiles that are registered to Washington residents but were sold by out-of-state dealers in the previous calendar year. An administrative fine of \$100 per day must be assessed to any manufacturer that fails to submit the required listing of warranties to the DOL by the last business day in January. The State Treasurer is directed to deposit the fines to the Nonhighway and Off-Road Vehicle Activities Program account and to the Snowmobile account in proportion to the number of ORV and snowmobile registrations in the preceding calendar year. The DOL must examine the listing to verify whether the vehicles are properly registered. By the end of February of each year, the DOL must notify the owners of the warranties of the ORVs and snowmobiles that are not properly registered of the owner's obligations under state law, as well as the penalties for failure to comply with the law. The DOL must send notification of legal obligations by certified mail.

If an owner of a snowmobile fails to act on registering, or an ORV owner fails to apply for a certificate of title and register, within 15 days of receiving a notice from the DOL that the vehicle is not properly registered under state law the owner is guilty of a misdemeanor. In situations where a person obtains a permit, temporary or otherwise, for use of an ORV or

snowmobile in another state, in order to avoid Washington taxes and fees, the person is also guilty of a gross misdemeanor.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This has been an issue for decades. As the price for these vehicles have become bigger, so has this issue. The tax revenues are very relevant. This is critical to the health of motorsports dealers. Oregon is poaching the sales from Washington State. This bill takes into consideration the impact on state agencies such as the Department of Revenue, Department of Licensing, DNR, and others. This is a win-win for all parties concerned. The last bill that helped the motorsports industry was in the 1980s. Many people go to Oregon to purchase side-by-side ORVs that are worth over \$20,000. This is a loophole that needs to be closed. When people buy out-of-state, they can purchase an Oregon ORV tag that is recognized in Washington State. This bill would allow Washington dealers to compete with Oregon dealers. It is hard to compete with a no-tax purchase. Fifty percent of units sold in 2007 were ORVs. With the advent of social media, the message to buy an ORV in Oregon without sales tax has spread. Ninety percent of people are now buying their ORVs out-of-state. The state of Washington is losing out on revenue. This is not a revenue neutral thing. It's a win for small business owners and Washington State.

OTHER: The DOL sees this as an issue. This bill could bring back ORV purchases into the state of Washington.

Persons Testifying: PRO: Senator Lynda Wilson, Prime Sponsor; Jim Boltz, President, Washington State Motorsports Dealers Association; Vicki Gray, Owner, South Sound & South Bound Honda & WA Off Highway Vehicle Alliance; John Jabusch, Owner, Pro Caliber Motorsports.

OTHER: Tony Sermonti, Department of Licensing.

Persons Signed In To Testify But Not Testifying: No one.

EFFECT OF HOUSE AMENDMENT(S): Moved the administrative fine of \$100 per day to the day after the first day in February which is the required deadline for any manufacturer to submit the required listing of warranties to the DOL of vehicles sold in the previous calendar year by out-of-state dealers to Washington State residents.