H-1697.3

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**HOUSE BILL 1870**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Representatives Klicker, Walsh, Chambers, Eslick, Dent, Chase, Robertson, Riccelli, and Graham

AN ACT Relating to certain wheeled all-terrain vehicles; amending RCW 46.09.455; and reenacting and amending RCW 46.09.310.

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

**Sec.**  RCW 46.09.310 and 2013 2nd sp.s. c 23 s 3 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advisory committee" means the nonhighway and off-road vehicle activities advisory committee established in RCW 46.09.340.

(2) "Board" means the recreation and conservation funding board established in RCW 79A.25.110.

(3) "Dealer" means a person, partnership, association, or corporation engaged in the business of selling off-road vehicles at wholesale or retail in this state.

(4) "Direct supervision" means that the supervising adult must be in a position, on another wheeled all-terrain vehicle or specialty off-highway vehicle or motorbike or, if on the ground, within a reasonable distance of the unlicensed operator, to provide close support, assistance, or direction to the unlicensed operator.

(5) "Emergency management" means the carrying out of emergency functions related to responding and recovering from emergencies and disasters, and to aid victims suffering from injury or damage, resulting from disasters caused by all hazards, whether natural, technological, or human caused, and to provide support for search and rescue operations for persons and property in distress.

(6) "Highway," for the purpose of this chapter only, means the entire width between the boundary lines of every roadway publicly maintained by the state department of transportation or any county or city with funding from the motor vehicle fund. A highway is generally capable of travel by a conventional two-wheel drive passenger automobile during most of the year and in use by such vehicles.

(7) "Nonhighway road" means any road owned or managed by a public agency, a primitive road, or any private road for which the owner has granted an easement for public use for which appropriations from the motor vehicle fund were not used for (a) original construction or reconstruction in the last twenty-five years; or (b) maintenance in the last four years.

(8) "Nonhighway road recreation facilities" means recreational facilities that are adjacent to, or accessed by, a nonhighway road and intended primarily for nonhighway road recreational users.

(9) "Nonhighway road recreational user" means a person whose purpose for consuming fuel on a nonhighway road or off-road is primarily for nonhighway road recreational purposes, including, but not limited to, hunting, fishing, camping, sightseeing, wildlife viewing, picnicking, driving for pleasure, kayaking/canoeing, and gathering berries, firewood, mushrooms, and other natural products.

(10) "Nonhighway vehicle" means any motorized vehicle including an ORV when used for recreational purposes on nonhighway roads, trails, or a variety of other natural terrain.

Nonhighway vehicle does not include:

(a) Any vehicle designed primarily for travel on, over, or in the water;

(b) Snowmobiles or any military vehicles; or

(c) Any vehicle eligible for a motor vehicle fuel tax exemption or rebate under chapter 82.38 RCW while an exemption or rebate is claimed. This exemption includes but is not limited to farm, construction, and logging vehicles.

(11) "Nonmotorized recreational facilities" means recreational trails and facilities that are adjacent to, or accessed by, a nonhighway road and intended primarily for nonmotorized recreational users.

(12) "Nonmotorized recreational user" means a person whose purpose for consuming fuel on a nonhighway road or off-road is primarily for nonmotorized recreational purposes including, but not limited to, walking, hiking, backpacking, climbing, cross-country skiing, snowshoeing, mountain biking, horseback riding, and pack animal activities.

(13) "Organized competitive event" means any competition, advertised in advance through written notice to organized clubs or published in local newspapers, sponsored by recognized clubs, and conducted at a predetermined time and place.

(14) "ORV recreation facilities" include, but are not limited to, ORV trails, trailheads, campgrounds, ORV sports parks, and ORV use areas, designated for ORV use by the managing authority.

(15) "ORV recreational user" means a person whose purpose for consuming fuel on nonhighway roads or off-road is primarily for ORV recreational purposes, including but not limited to riding an all-terrain vehicle, motorcycling, or driving a four-wheel drive vehicle or dune buggy.

(16) "ORV sports park" means a facility designed to accommodate competitive ORV recreational uses including, but not limited to, motocross racing, four-wheel drive competitions, and flat track racing. Use of ORV sports parks can be competitive or noncompetitive in nature.

(17) "ORV trail" means a multiple-use corridor designated by the managing authority and maintained for recreational use by motorized vehicles.

(18) "Primitive road" means a linear route managed for use by four-wheel drive or high-clearance vehicles that is generally not maintained or paved, a road designated by a county as primitive under RCW 36.75.300, or a road designated by a city or town as primitive under a local ordinance.

(19) "Qualifying WATV" means a wheeled all-terrain vehicle that includes:

(a) Tires that are manufactured in compliance with United States department of transportation requirements for on-road travel;

(b) Hydraulic brakes from the original equipment manufacturer; and

(c) If the wheeled all-terrain vehicle is a utility-type vehicle, a roll cage from the original equipment manufacturer.

(20) "Wheeled all-terrain vehicle" means (a) any motorized nonhighway vehicle with handlebars that is fifty inches or less in width, has a seat height of at least twenty inches, weighs less than one thousand five hundred pounds, and has four tires having a diameter of thirty inches or less, or (b) a utility-type vehicle designed for and capable of travel over designated roads that ((~~travels on four or more low-pressure tires of twenty psi or less,~~)) has a maximum width less than seventy-four inches, has a maximum weight less than ((~~two thousand~~)) 4,000 pounds, has a wheelbase of one hundred ten inches or less, and satisfies at least one of the following: (i) Has a minimum width of fifty inches; (ii) has a minimum weight of at least nine hundred pounds; or (iii) has a wheelbase of over sixty-one inches.

**Sec.**  RCW 46.09.455 and 2021 c 121 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 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 is within the limits of a city or town, or if the county in which the segment is located has first consulted with the department of transportation, and then adopted an ordinance approving the operation of wheeled all-terrain vehicles on that segment, and the speed limit on the segment is thirty-five miles per hour or less;

(b)(i) A person operating a wheeled all-terrain vehicle may not cross a public roadway, not including nonhighway roads and trails, 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) Except as otherwise provided in (a) of this subsection, 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 website.

(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 website.

(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)(a) In addition to having the rights and responsibilities granted with respect to the operation of wheeled all-terrain vehicles under subsection (1) of this section, a person is authorized to operate a qualifying WATV on county roads, not including nonhighway roads and trails, with a posted speed limit of 50 miles per hour or less in a rural county as defined in RCW 82.14.370, subject to the following restrictions:

(i) A county of 15,000 persons or more must first approve such operation on designated county roads by ordinance.

(ii) A county of fewer than 15,000 persons may designate a county road or roads to be unsuitable for such operation by ordinance.

(b) A person operating a qualifying WATV that is not equipped with a roll cage may not operate the vehicle without a helmet or in excess of 45 miles per hour.

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

((~~(3)~~)) (4) 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)~~)) (5) A wheeled all-terrain vehicle is an off-road vehicle for the purposes of chapter 4.24 RCW.

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