

SENATE BILL REPORT

SB 5314

As of January 23, 2023

Title: An act relating to electric-assisted bicycle use on certain trails and roads.

Brief Description: Concerning electric-assisted bicycle use on certain trails and roads.

Sponsors: Senators Wilson, J., Cleveland, Nobles and Randall.

Brief History:

Committee Activity: Transportation: 1/23/23.

Brief Summary of Bill

- Requires state agencies with jurisdiction over a nonmotorized natural surface trail or road closed to motorized vehicles that is open to bicycle use to allow all classes of electric-assisted bicycles to use such trail or road.
- Creates an electric-assisted bicycle pass permitting e-bike use on nonmotorized trails and closed roads that is valid for one year.
- Creates an electric-assisted bicycle account to fund the maintenance of and signage on trails and roads where electric-assisted bicycles are permitted and educational materials for electric-assisted bicycle use on such trails and roads.

SENATE COMMITTEE ON TRANSPORTATION

Staff: Brandon Popovac (786-7465)

Background: Electric-Assisted Bicycles—Generally. Electric-assisted bicycle, or e-bike, means a bicycle with two or three wheels, a saddle, fully operative pedals for human propulsion, and an electric motor. The motor must have a power output of no more than 750 watts, and the electric-assisted bicycle must meet the requirements of one of the three

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

following classifications:

- class 1—in which the motor provides assistance only when the rider is pedaling and ceases to provide assistance when the bicycle reaches 20 mph;
- class 2—in which the motor may be used exclusively to propel the bicycle and is not capable of providing assistance when the bicycle reaches 20 mph; or
- class 3—in which the motor provides assistance only when the rider is pedaling and ceases to provide assistance when the bicycle reaches 28 mph and is equipped with a speedometer.

Persons under the age of 16 may not operate a class 3 e-bike. There is no age limit for the operation of class 1 and 2 e-bikes.

Electric-Assisted Bicycle Use. There are various restrictions on where the different classes of e-bikes may be operated. For example, all classes of e-bikes may be operated on a fully controlled limited access highway, and class 1 and 2 e-bikes may be used on a sidewalk. Class 3 e-bikes may not be used on a sidewalk unless there is no alternative to travel over a sidewalk as part of a bicycle or pedestrian path.

Generally, a person may not operate an e-bike on a trail designated as nonmotorized and has a natural surface, unless otherwise authorized by the state agency or local authority having jurisdiction over the trail. Until June 30, 2023, or until legislation is enacted or rules are adopted related to the use of e-bikes on nonmotorized natural surface trails and closed roads on lands managed by the Department of Natural Resources (DNR) or the Department of Fish and Wildlife (WDFW), whichever is earlier, DNR and WDFW must allow persons who possess a current parking placard for persons with disabilities to use class 1 and class 2 e-bikes on all nonmotorized natural surface trails and closed roads on which bicycles are allowed.

Electric-Assisted Bicycle Use Study. As required by the Legislature, WDFW and DNR convened an interagency public process to collect input from tribes, persons with disabilities, and other stakeholders on where e-bikes should be allowed on DNR- and WDFW-managed lands, specifically on nonmotorized natural surface trails and roads closed to motorized use. A report with findings from the tribal and other stakeholder engagement processes, conclusions from findings, and recommendations on such e-bike use were published and provided to the Legislature in September 2022.

Natural Resource Infraction. A natural resource infraction is an offense under statutes and rules governing fish and wildlife lands, public lands, and public recreational lands, including access to recreational lands, but is not considered a criminal offense. A person who commits an infraction is assessed a monetary penalty that may not exceed \$500 for each offense unless specifically authorized by statute.

Summary of Bill: State agencies with jurisdiction over a non-motorized, natural surface trail open to bicycles must allow the operation of all classes of e-bikes on such trails.

However, state agencies having jurisdiction over such a trail may close the trail to bicycles and e-bikes, via an open public process, to protect wildlife or natural resources or to preserve public safety. Agencies are defined as DNR, WDFW, and the Parks and Recreation Commission.

State agencies with jurisdiction over a road closed to motorized vehicles but allows for non-motorized access for bicycles must allow the operation of all classes of e-bikes on such roads.

Persons operating an e-bike on such trails and roads as allowed must obey all speed limits, yield the right-of-way to pedestrians, and carry on their person an electric-assisted bicycle pass.

An electric-assisted bicycle pass is created and required for any person to operate an e-bike on agency facilities as authorized. Such passes are available to purchase for \$5 from vendors under contract with any of the agencies or from the Department of Licensing. Revenue from the sale of such passes must be deposited in a newly created electric-assisted bicycle account. Such passes are valid for one year from the date of activation, must be carried on the person operating the e-bike, and may only be used for one e-bike at a time.

Failure to comply with electric-assisted bicycle pass requirements is a natural resource infraction, with a statutory fine of \$99. The fine may be reduced to \$59 if the person found in violation provides proof of purchase of such pass to the court within 15 days after issuance of the notice of infraction. Seventy-five percent of penalty revenue must be deposited into the electric-assisted bicycle account, with the balance of noninterest revenue for deposit into the county current expense fund. Each fiscal biennium, account revenue must be distributed equally among the specified state agencies. Expenditures from the electric-assisted bicycle account may only be used for maintenance of nonmotorized surface trails and closed roads where e-bike use is permitted, signage describing speed limits and other rules for e-bike use on such trails and roads, and educational materials for e-bike use on such trails and roads.

Appropriation: None.

Fiscal Note: Requested on January 16, 2023.

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: PRO: Thirty-eight percent of bike sales are e-bikes. There is always room for improvement and civility when accessing and using trails and nonmotorized roads. The new fee is intended for trail maintenance and for educational materials. Having access to trails and nonmotorized roads benefits responsible citizens and

allows them to engage in an array of activities. Some people cannot bicycle without pedal assistance, and we need to have more accessible trails. The bill can help aging people enjoy the outdoors. The bill grants natural access to public lands and provides e-bike riders a chance to decompress from stress.

CON: Sixty-one percent of those surveyed in the DNR and WDFW study expressed e-bikes should be removed from trails or have very little use. The bill does not carry forward any of the study's recommendations. There are funding challenges in current land management practices, which requires more engagement with tribes and other natural resource groups. E-bikes should still be allowed where motorized use is also allowed. WDFW would be put in a difficult position to open up all managed lands in jurisdiction. Local planning processes might be able to solve connectivity issues between trails owned by different agencies. There must be a careful analysis on ecological impact of e-bike use. There needs to be a balance for sustainable recreation and environmental conservation. There cannot be a blanket e-bike use law for all of Washington State. Local decisions are best to determine extent of e-bike access to trails and nonmotorized use. Horses may be spooked by fast e-bikes going around a curve. Some trails are impossible for e-bikes and horses to pass one another. Additional trail impacts should be evaluated ahead of time. There are enforcement issues and administrative burdens in the issuance of the new passes.

OTHER: State parks already allows class 1 and class 3 e-bikes on nonmotorized roads and trails, and a permit is not required on long distance trails. State parks also allow the use of other mobility devices on trails and roads. Park rangers do not engage in much enforcement. It is difficult to enforce the difference between the three classes of e-bikes and which are allowed where.

Persons Testifying: PRO: Senator Jeff Wilson, Prime Sponsor; Aileen Denton; Mark Smith; Bruce Barnes.

CON: Brian Considine, Washington Department of Natural Resources; Yvonne Kraus, Evergreen Mountain Bike Alliance; Joel Sisolak, WDFW; Andrea Imler, Washington Trails Association; Kurt Hellmann, Conservation Northwest; Vivian Eason, Backcountry Horsemen of WA; Joyce Willms, Backcountry Horsemen of WA.

OTHER: Owen Rowe, Washington State Parks and Recreation Commission, Policy and Governmental Affairs Director.

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