

# HOUSE BILL REPORT

## ESHB 2356

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**As Passed House:**

February 13, 2004

**Title:** An act relating to the operation of off-road vehicles on roadways.

**Brief Description:** Allowing off-road vehicles on nonhighway roads.

**Sponsors:** By House Committee on Fisheries, Ecology & Parks (originally sponsored by Representatives Hinkle, Buck, Condotta, O'Brien, Pearson and Shabro).

**Brief History:**

**Committee Activity:**

Fisheries, Ecology & Parks: 1/20/04 [DPS].

**Floor Activity:**

Passed House: 2/13/04, 96-0.

**Brief Summary of Engrossed Substitute Bill**

- Authorizes the use of off-road vehicles (ORVs) on nonhighway roads when authorized by the responsible governing body.
- Exempts ORVs operating on nonhighway roads from vehicle licensing, equipment and lighting requirements.
- Establishes an infraction for operating an ORV on a nonhighway road without a motorcycle helmet.
- Restricts persons under 16 years of age from operating an ORV on a nonhighway road unless they are under the direct supervision of an adult.

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### HOUSE COMMITTEE ON FISHERIES, ECOLOGY & PARKS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Cooper, Chair; Upthegrove, Vice Chair; Sump, Ranking Minority Member; Hinkle, Assistant Ranking Minority Member; Hatfield, O'Brien, Pearson and Simpson, D.

**Staff:** Jeff Olsen (786-7157).

**Background:**

Except for specific exemptions, it is unlawful for persons to operate any vehicle on a public highway without first having a current vehicle license. Exceptions to the licensing requirement include motorized foot scooters, electric-assisted bicycles, certain farm vehicles, and certain trailers. In addition, vehicles operating on any highway must comply with vehicle lighting and equipment requirements.

The Forest Service Manual, Pacific Northwest Region, effective April 10, 2003, accepts the use of off-highway vehicles when it is in accordance with state laws and regulations and consistent with the forest plan. In response to questions regarding state regulation on forest service roads, Attorney General Opinion 1972, No.3, in part maintained that forest service roads fell within the state definition of highway. Nonhighway roads and highways are defined for the purposes of off-road and nonhighway vehicles under Chapter 46.09 RCW.

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**Summary of Engrossed Substitute Bill:**

The use of off-road vehicles (ORV) on nonhighway roads is allowed when authorized by the responsible governing body. ORVs are exempt from vehicle licensing, equipment and lighting requirements when operating on nonhighway roads.

It is a traffic infraction for any person to operate an ORV on a highway, or to operate an ORV on a nonhighway road without a motorcycle helmet. Persons under 16 years of age are restricted from operating an ORV on a nonhighway road unless they are under the direct supervision of a person 18 years of age or older with a valid drivers license.

The definitions for highway and nonhighway road are changed to clarify a highway includes any roadway maintained by state motor vehicle fund monies. Nonhighway road is defined as any road that was not originally built or reconstructed in the last 25 years or maintained during the last four years with motor vehicle fund monies.

**Substitute Bill Compared to Original Bill:** The substitute bill establishes a traffic infraction for operating an ORV on a nonhighway road without wearing a motorcycle helmet, and also changes the definition of highway and nonhighway road for the purposes of off-road and nonhighway vehicles. The substitute bill clarifies that equipment and lighting standards for vehicles operating on highways do not apply to ORVs used on nonhighway roads. The substitute bill authorizes the use of ORVs in a parking area serving designated ORV areas, not just paved parking areas as authorized in the original bill.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect July 1, 2004.

**Testimony For:** The issue of access is very important to the recreational community. In neighboring states, including Oregon and Idaho, ORVs can operate on forest roads. In Washington, ORVs must comply with vehicle licensing requirements. There is a lack of legal places to ride, and it is difficult and expensive to make ORVs street legal. ORVs could be used on roads to conduct road and trail maintenance activities. If ORVs have more infrastructure to use, this will lessen the impact of operating ORVs in unauthorized areas.

The Forest Service has worked in cooperation with ORV user groups and the state. The Forest Service generally agrees with the purposes of the bill, and is currently working on policies to manage ORV use in national forests. There is room for improvements in the original bill for safety provisions and consistent definitions. The Department of Natural Resources (DNR) supports ORV use as an allowable recreational use when compatible with land management objectives, and supports the flexibility and rider safety provisions in the bill.

**Testimony Against:** None.

**Persons Testifying:** Representative Hinkle, prime sponsor; Alan Quan, United States Forest Service; Dave Bowers, Northwest Motorcycle Association; Howard Briggs, Washington State Snowmobile Association; Bonnie Bunning, Department of Natural Resources; and Frank J. Warnke, Advocates INC.

**Persons Signed In To Testify But Not Testifying:** Eddie Armstrong.