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HOUSE BILL 2356

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State of Washington                      58th Legislature                      2004 Regular Session

By Representatives Hinkle, Buck, Condotta, O'Brien, Pearson and Shabro

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Committee on Fisheries, Ecology & Parks.

1            AN ACT Relating to the operation of off-road vehicles on roadways;  
2 amending RCW 46.09.120; reenacting and amending RCW 46.16.010; adding  
3 a new section to chapter 46.09 RCW; creating a new section; and  
4 providing an effective date.

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

6            NEW SECTION.    **Sec. 1.** The legislature finds that off-road  
7 recreational vehicles (ORVs) provide opportunities for a wide variety  
8 of outdoor recreation activities. The legislature further finds that  
9 the growing popularity of ORV use and the limited amount of ORV trails  
10 presents a challenge for ORV recreational users, natural resource land  
11 managers, and private landowners. The legislature further finds that  
12 many nonhighway and unpaved roads provide opportunities for ORV use.  
13 However, restrictions intended for motor vehicles may prevent ORV use  
14 on certain roads, including forest service roads. Therefore, the  
15 legislature finds that local, state, and federal jurisdictions should  
16 be given the flexibility to allow ORV use on roads that are not  
17 intended primarily for passenger motor vehicle use.

1       **Sec. 2.** RCW 46.09.120 and 2003 c 377 s 1 are each amended to read  
2 as follows:

3       (1) It is a traffic infraction for any person to operate any  
4 nonhighway vehicle:

5       (a) In such a manner as to endanger the property of another;

6       (b) On lands not owned by the operator or owner of the nonhighway  
7 vehicle without a lighted headlight and taillight between the hours of  
8 dusk and dawn, or when otherwise required for the safety of others  
9 regardless of ownership;

10       (c) On lands not owned by the operator or owner of the nonhighway  
11 vehicle without an adequate braking device or when otherwise required  
12 for the safety of others regardless of ownership;

13       (d) Without a spark arrester approved by the department of natural  
14 resources;

15       (e) Without an adequate, and operating, muffling device which  
16 effectively limits vehicle noise to no more than eighty-six decibels on  
17 the "A" scale at fifty feet as measured by the Society of Automotive  
18 Engineers (SAE) test procedure J 331a, except that a maximum noise  
19 level of one hundred and five decibels on the "A" scale at a distance  
20 of twenty inches from the exhaust outlet shall be an acceptable  
21 substitute in lieu of the Society of Automotive Engineers test  
22 procedure J 331a when measured:

23       (i) At a forty-five degree angle at a distance of twenty inches  
24 from the exhaust outlet;

25       (ii) With the vehicle stationary and the engine running at a steady  
26 speed equal to one-half of the manufacturer's maximum allowable ("red  
27 line") engine speed or where the manufacturer's maximum allowable  
28 engine speed is not known the test speed in revolutions per minute  
29 calculated as sixty percent of the speed at which maximum horsepower is  
30 developed; and

31       (iii) With the microphone placed ten inches from the side of the  
32 vehicle, one-half way between the lowest part of the vehicle body and  
33 the ground plane, and in the same lateral plane as the rearmost exhaust  
34 outlet where the outlet of the exhaust pipe is under the vehicle;

35       (f) On lands not owned by the operator or owner of the nonhighway  
36 vehicle on any highway, upon the shoulder or inside bank or slope of  
37 any nonhighway road or highway, or upon the median of any divided  
38 highway;

1 (g) On lands not owned by the operator or owner of the nonhighway  
2 vehicle in any area or in such a manner so as to unreasonably expose  
3 the underlying soil, or to create an erosion condition, or to injure,  
4 damage, or destroy trees, growing crops, or other vegetation;

5 (h) On lands not owned by the operator or owner of the nonhighway  
6 vehicle or on any nonhighway road or trail, when these are restricted  
7 to pedestrian or animal travel; and

8 (i) On any public lands in violation of rules and regulations of  
9 the agency administering such lands.

10 (2) It is a misdemeanor for any person to operate any nonhighway  
11 vehicle while under the influence of intoxicating liquor or a  
12 controlled substance.

13 NEW SECTION. **Sec. 3.** A new section is added to chapter 46.09 RCW  
14 to read as follows:

15 (1) It is lawful to operate an off-road vehicle upon a nonhighway  
16 road and in paved parking areas serving designated off-road vehicle  
17 areas unless the responsible governing body, including state, federal,  
18 or local authorities, prohibits the use of off-road vehicles, if:

19 (a) Any person operating an off-road vehicle is in compliance with  
20 RCW 46.09.120; and

21 (b) The nonhighway road is not intended and maintained primarily  
22 for passenger motor vehicle use.

23 (2) An off-road vehicle operated on a nonhighway road under this  
24 section is exempt from licensing requirements of RCW 46.16.010 and  
25 vehicle lighting and equipment requirements of chapter 46.37 RCW.

26 **Sec. 4.** RCW 46.16.010 and 2003 c 353 s 8 and 2003 c 53 s 238 are  
27 each reenacted and amended to read as follows:

28 (1) It is unlawful for a person to operate any vehicle over and  
29 along a public highway of this state without first having obtained and  
30 having in full force and effect a current and proper vehicle license  
31 and display vehicle license number plates therefor as by this chapter  
32 provided.

33 (2) Failure to make initial registration before operation on the  
34 highways of this state is a misdemeanor, and any person convicted  
35 thereof must be punished by a fine of no less than three hundred thirty  
36 dollars, no part of which may be suspended or deferred.

1 (3) Failure to renew an expired registration before operation on  
2 the highways of this state is a traffic infraction.

3 (4) The licensing of a vehicle in another state by a resident of  
4 this state, as defined in RCW 46.16.028, evading the payment of any tax  
5 or license fee imposed in connection with registration, is a gross  
6 misdemeanor punishable as follows:

7 (a) For a first offense, up to one year in the county jail and a  
8 fine equal to twice the amount of delinquent taxes and fees, no part of  
9 which may be suspended or deferred;

10 (b) For a second or subsequent offense, up to one year in the  
11 county jail and a fine equal to four times the amount of delinquent  
12 taxes and fees, no part of which may be suspended or deferred;

13 (c) For fines levied under (b) of this subsection, an amount equal  
14 to the avoided taxes and fees owed will be deposited in the vehicle  
15 licensing fraud account created in the state treasury;

16 (d) The avoided taxes and fees shall be deposited and distributed  
17 in the same manner as if the taxes and fees were properly paid in a  
18 timely fashion.

19 (5) These provisions shall not apply to the following vehicles:

20 (a) Motorized foot scooters;

21 (b) Electric-assisted bicycles;

22 (c) Off-road vehicles operating on nonhighway roads under section  
23 3 of this act;

24 (d) Farm vehicles if operated within a radius of fifteen miles of  
25 the farm where principally used or garaged, farm tractors and farm  
26 implements including trailers designed as cook or bunk houses used  
27 exclusively for animal herding temporarily operating or drawn upon the  
28 public highways, and trailers used exclusively to transport farm  
29 implements from one farm to another during the daylight hours or at  
30 night when such equipment has lights that comply with the law;

31 ~~((d))~~ (e) Spray or fertilizer applicator rigs designed and used  
32 exclusively for spraying or fertilization in the conduct of  
33 agricultural operations and not primarily for the purpose of  
34 transportation, and nurse rigs or equipment auxiliary to the use of and  
35 designed or modified for the fueling, repairing, or loading of spray  
36 and fertilizer applicator rigs and not used, designed, or modified  
37 primarily for the purpose of transportation;

1       (~~(e)~~) (f) Fork lifts operated during daylight hours on public  
2 highways adjacent to and within five hundred feet of the warehouses  
3 which they serve: PROVIDED FURTHER, That these provisions shall not  
4 apply to vehicles used by the state parks and recreation commission  
5 exclusively for park maintenance and operations upon public highways  
6 within state parks;

7       (~~(f)~~) (g) "Special highway construction equipment" defined as  
8 follows: Any vehicle which is designed and used primarily for grading  
9 of highways, paving of highways, earth moving, and other construction  
10 work on highways and which is not designed or used primarily for the  
11 transportation of persons or property on a public highway and which is  
12 only incidentally operated or moved over the highway. It includes, but  
13 is not limited to, road construction and maintenance machinery so  
14 designed and used such as portable air compressors, air drills, asphalt  
15 spreaders, bituminous mixers, bucket loaders, track laying tractors,  
16 ditchers, leveling graders, finishing machines, motor graders, paving  
17 mixers, road rollers, scarifiers, earth moving scrapers and carryalls,  
18 lighting plants, welders, pumps, power shovels and draglines, self-  
19 propelled and tractor-drawn earth moving equipment and machinery,  
20 including dump trucks and tractor-dump trailer combinations which  
21 either (i) are in excess of the legal width, or (ii) which, because of  
22 their length, height, or unladen weight, may not be moved on a public  
23 highway without the permit specified in RCW 46.44.090 and which are not  
24 operated laden except within the boundaries of the project limits as  
25 defined by the contract, and other similar types of construction  
26 equipment, or (iii) which are driven or moved upon a public highway  
27 only for the purpose of crossing such highway from one property to  
28 another, provided such movement does not exceed five hundred feet and  
29 the vehicle is equipped with wheels or pads which will not damage the  
30 roadway surface.

31       Exclusions:

32       "Special highway construction equipment" does not include any of  
33 the following:

34       Dump trucks originally designed to comply with the legal size and  
35 weight provisions of this code notwithstanding any subsequent  
36 modification which would require a permit, as specified in RCW  
37 46.44.090, to operate such vehicles on a public highway, including

1 trailers, truck-mounted transit mixers, cranes and shovels, or other  
2 vehicles designed for the transportation of persons or property to  
3 which machinery has been attached.

4 (6) The following vehicles, whether operated solo or in  
5 combination, are exempt from license registration and displaying  
6 license plates as required by this chapter:

7 (a) A converter gear used to convert a semitrailer into a trailer  
8 or a two-axle truck or tractor into a three or more axle truck or  
9 tractor or used in any other manner to increase the number of axles of  
10 a vehicle. Converter gear includes an auxiliary axle, booster axle,  
11 dolly, and jeep axle.

12 (b) A tow dolly that is used for towing a motor vehicle behind  
13 another motor vehicle. The front or rear wheels of the towed vehicle  
14 are secured to and rest on the tow dolly that is attached to the towing  
15 vehicle by a tow bar.

16 NEW SECTION. **Sec. 5.** This act takes effect July 1, 2004.

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