

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2489

Chapter 105, Laws of 2004

58th Legislature
2004 Regular Session

OFF-ROAD VEHICLES

EFFECTIVE DATE: 6/10/04 - Except section 4, which becomes effective 7/1/04; and section 6, which becomes effective 6/30/05

Passed by the House March 9, 2004
Yeas 77 Nays 16

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 5, 2004
Yeas 46 Nays 0

BRAD OWEN

President of the Senate

Approved March 24, 2004.

GARY F. LOCKE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2489** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

March 24, 2004 - 2:20 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2489

AS AMENDED BY THE SENATE

Passed Legislature - 2004 Regular Session

State of Washington 58th Legislature 2004 Regular Session

By House Committee on Fisheries, Ecology & Parks (originally sponsored by Representatives Cooper, Condotta, Anderson, Nixon, Upthegrove, Priest, Dunshee, Moeller and Armstrong)

READ FIRST TIME 01/20/04.

1 AN ACT Relating to off-road and nonhighway vehicles; amending RCW
2 46.09.020, 46.09.110, 46.09.130, 46.09.130, 46.09.240, 46.09.280, and
3 46.09.050; reenacting and amending RCW 46.09.170 and 46.09.170; adding
4 a new section to chapter 46.09 RCW; providing effective dates; and
5 providing expiration dates.

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

7 **Sec. 1.** RCW 46.09.020 and 1986 c 206 s 1 are each amended to read
8 as follows:

9 (~~As used in this chapter the following words and phrases have the~~
10 ~~designated meanings unless a different meaning is expressly provided or~~
11 ~~the context otherwise clearly indicates:~~

12 ~~"Person" means any individual, firm, partnership, association, or~~
13 ~~corporation.~~

14 ~~"Nonhighway vehicle" means any motorized vehicle when used for~~
15 ~~recreation travel on trails and nonhighway roads or for recreation~~
16 ~~cross country travel on any one of the following or a combination~~
17 ~~thereof: Land, water, snow, ice, marsh, swampland, and other natural~~
18 ~~terrain. Such vehicles include but are not limited to, off road~~
19 ~~vehicles, two, three, or four wheel vehicles, motorcycles, four wheel~~

1 ~~drive vehicles, dune buggies, amphibious vehicles, ground effects or~~
2 ~~air cushion vehicles, and any other means of land transportation~~
3 ~~deriving motive power from any source other than muscle or wind.~~

4 ~~Nonhighway vehicle does not include:~~

5 ~~(1) Any vehicle designed primarily for travel on, over, or in the~~
6 ~~water;~~

7 ~~(2) Snowmobiles or any military vehicles; or~~

8 ~~(3) Any vehicle eligible for a motor vehicle fuel tax exemption or~~
9 ~~rebate under chapter 82.36 RCW while an exemption or rebate is claimed.~~
10 ~~This exemption includes but is not limited to farm, construction, and~~
11 ~~logging vehicles.~~

12 ~~"Off road vehicle" or "ORV" means any nonhighway vehicle when used~~
13 ~~for cross country travel on trails or on any one of the following or a~~
14 ~~combination thereof: Land, water, snow, ice, marsh, swampland and~~
15 ~~other natural terrain.~~

16 ~~"ORV use permit" means a permit issued for operation of an off road~~
17 ~~vehicle under this chapter.~~

18 ~~"ORV trail" means a multiple use corridor designated and maintained~~
19 ~~for recreational travel by off road vehicles that is not normally~~
20 ~~suitable for travel by conventional two wheel drive vehicles and is~~
21 ~~posted or designated by the managing authority of the property that the~~
22 ~~trail traverses as permitting ORV travel.~~

23 ~~"ORV use area" means the entire area of a parcel of land except for~~
24 ~~camping and approved buffer areas that is posted or designated for ORV~~
25 ~~use in accordance with rules adopted by the managing authority.~~

26 ~~"ORV recreation facility" includes ORV trails and ORV use areas.~~

27 ~~"Owner" means the person other than the lienholder, having an~~
28 ~~interest in or title to a nonhighway vehicle, and entitled to the use~~
29 ~~or possession thereof.~~

30 ~~"Operator" means each person who operates, or is in physical~~
31 ~~control of, any nonhighway vehicle.))~~

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

34 (1) "Advisory committee" means the nonhighway and off-road vehicle
35 activities advisory committee established in RCW 46.09.280.

36 (2) "Committee" means the interagency committee for outdoor
37 recreation established in RCW 79A.25.110.

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

4 (4) "Department" means the department of licensing.

5 (~~"Hunt" means any effort to kill, injure, capture, or purposely~~
6 ~~disturb a wild animal or wild bird.~~

7 ~~"Nonhighway road" means any road owned or managed by a public~~
8 ~~agency, or any private road for which the owner has granted a permanent~~
9 ~~easement for public use of the road, other than a highway generally~~
10 ~~capable of travel by a conventional two-wheel drive passenger~~
11 ~~automobile during most of the year and in use by such vehicles and that~~
12 ~~is not built or maintained with appropriations from the motor vehicle~~
13 ~~fund.~~

14 ~~"Highway," for the purpose of this chapter only, means the entire~~
15 ~~width between the boundary lines of every way publicly maintained by~~
16 ~~the state department of transportation or any county or city when any~~
17 ~~part thereof is generally open to the use of the public for purposes of~~
18 ~~vehicular travel as a matter of right.~~

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

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

29 (6) "Motorized vehicle" means a vehicle that derives motive power
30 from an internal combustion engine.

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

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

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

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

10 Nonhighway vehicle does not include:

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

13 (b) Snowmobiles or any military vehicles; or

14 (c) Any vehicle eligible for a motor vehicle fuel tax exemption or
15 rebate under chapter 82.36 RCW while an exemption or rebate is claimed.
16 This exemption includes but is not limited to farm, construction, and
17 logging vehicles.

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

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

28 (13) "Off-road vehicle" or "ORV" means any nonstreet licensed
29 vehicle when used for recreational purposes on nonhighway roads,
30 trails, or a variety of other natural terrain. Such vehicles include,
31 but are not limited to, all-terrain vehicles, motorcycles, four-wheel
32 drive vehicles, and dune buggies.

33 (14) "Operator" means each person who operates, or is in physical
34 control of, any nonhighway vehicle.

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

1 (16) "ORV recreation facilities" include, but are not limited to,
2 ORV trails, trailheads, campgrounds, ORV sports parks, and ORV use
3 areas, designated for ORV use by the managing authority that are
4 intended primarily for ORV recreational users.

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

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

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

17 (20) "ORV use permit" means a permit issued for operation of an
18 off-road vehicle under this chapter.

19 (21) "Owner" means the person other than the lienholder, having an
20 interest in or title to a nonhighway vehicle, and entitled to the use
21 or possession thereof.

22 (22) "Person" means any individual, firm, partnership, association,
23 or corporation.

24 **Sec. 2.** RCW 46.09.110 and 1986 c 206 s 6 are each amended to read
25 as follows:

26 The moneys collected by the department under this chapter shall be
27 distributed from time to time but at least once a year in the following
28 manner:

29 The department shall retain enough money to cover expenses incurred
30 in the administration of this chapter: PROVIDED, That such retention
31 shall never exceed eighteen percent of fees collected.

32 The remaining moneys shall be distributed for ORV recreation
33 facilities by the interagency committee for outdoor recreation in
34 accordance with RCW 46.09.170(~~((1)(d))~~) (2)(d)(ii)(A).

35 **Sec. 3.** RCW 46.09.130 and 1994 c 264 s 35 are each amended to read
36 as follows:

1 No person may operate a nonhighway vehicle in such a way as to
2 endanger human life. No person shall operate a nonhighway vehicle in
3 such a way as to run down or harass any wildlife or animal, nor carry,
4 transport, or convey any loaded weapon in or upon, nor hunt from, any
5 nonhighway vehicle except by permit issued by the director of fish and
6 wildlife under RCW 77.32.237: PROVIDED, That it shall not be unlawful
7 to carry, transport, or convey a loaded pistol in or upon a nonhighway
8 vehicle if the person complies with the terms and conditions of chapter
9 9.41 RCW.

10 For the purposes of this section, "hunt" means any effort to kill,
11 injure, capture, or purposely disturb a wild animal or bird.

12 Violation of this section is a gross misdemeanor.

13 **Sec. 4.** RCW 46.09.130 and 2003 c 53 s 233 are each amended to read
14 as follows:

15 (1) No person may operate a nonhighway vehicle in such a way as to
16 endanger human life.

17 (2) No person shall operate a nonhighway vehicle in such a way as
18 to run down or harass any wildlife or animal, nor carry, transport, or
19 convey any loaded weapon in or upon, nor hunt from, any nonhighway
20 vehicle except by permit issued by the director of fish and wildlife
21 under RCW 77.32.237: PROVIDED, That it shall not be unlawful to carry,
22 transport, or convey a loaded pistol in or upon a nonhighway vehicle if
23 the person complies with the terms and conditions of chapter 9.41 RCW.

24 (3) For the purposes of this section, "hunt" means any effort to
25 kill, injure, capture, or purposely disturb a wild animal or bird.

26 (4) Violation of this section is a gross misdemeanor.

27 **Sec. 5.** RCW 46.09.170 and 2003 1st sp.s. c 26 s 920, 2003 1st
28 sp.s. c 25 s 922, and 2003 c 361 s 407 are each reenacted and amended
29 to read as follows:

30 (1) From time to time, but at least once each year, the state
31 treasurer shall refund from the motor vehicle fund one percent of the
32 motor vehicle fuel tax revenues collected under chapter 82.36 RCW,
33 based on a tax rate of: (a) Nineteen cents per gallon of motor vehicle
34 fuel from July 1, 2003, through June 30, 2005; (b) twenty cents per
35 gallon of motor vehicle fuel from July 1, 2005, through June 30, 2007;
36 (c) twenty-one cents per gallon of motor vehicle fuel from July 1,

1 2007, through June 30, 2009; (d) twenty-two cents per gallon of motor
2 vehicle fuel from July 1, 2009, through June 30, 2011; and (e) twenty-
3 three cents per gallon of motor vehicle fuel beginning July 1, 2011,
4 and thereafter, less proper deductions for refunds and costs of
5 collection as provided in RCW 46.68.090.

6 (2) The treasurer shall place these funds in the general fund as
7 follows:

8 ~~((i) Forty))~~ (a) Thirty-six percent shall be credited to the ORV
9 and nonhighway vehicle account and administered by the department of
10 natural resources solely for acquisition, planning, development,
11 maintenance, and management of ORV, nonmotorized, and nonhighway road
12 recreation facilities, and information programs and maintenance of
13 nonhighway roads~~(, and nonhighway road recreation facilities. The~~
14 ~~funds under this subsection shall be expended in accordance with the~~
15 ~~following limitations:~~

16 ~~(A) Not more than five percent may be expended for information~~
17 ~~programs under this chapter;~~

18 ~~(B) Not less than ten percent and not more than fifty percent may~~
19 ~~be expended for ORV recreation facilities;~~

20 ~~(C) Not more than twenty five percent may be expended for~~
21 ~~maintenance of nonhighway roads;~~

22 ~~(D) Not more than fifty percent may be expended for nonhighway road~~
23 ~~recreation facilities;~~

24 ~~(E) Ten percent shall be transferred to the interagency committee~~
25 ~~for outdoor recreation for grants to law enforcement agencies in those~~
26 ~~counties where the department of natural resources maintains ORV~~
27 ~~facilities. This amount is in addition to those distributions made by~~
28 ~~the interagency committee for outdoor recreation under (e)(iv)(A) of~~
29 ~~this subsection));~~

30 ~~((ii))~~ (b) Three and one-half percent shall be credited to the
31 ORV and nonhighway vehicle account and administered by the department
32 of fish and wildlife solely for the acquisition, planning, development,
33 maintenance, and management of ORV, nonmotorized, and nonhighway
34 ~~(roads and))~~ road recreation facilities and the maintenance of
35 nonhighway roads;

36 ~~((iii))~~ (c) Two percent shall be credited to the ORV and
37 nonhighway vehicle account and administered by the parks and recreation

1 commission solely for the acquisition, planning, development,
2 maintenance, and management of ORV ((use areas and)), nonmotorized, and
3 nonhighway road recreation facilities; and

4 ~~((iv) Fifty four))~~ (d) Fifty-eight and one-half percent ~~((,~~
5 ~~together with the funds received by the interagency committee for~~
6 ~~outdoor recreation under RCW 46.09.110,))~~ shall be credited to the
7 nonhighway and off-road vehicle activities program account to be
8 administered by the committee for planning, acquisition, development,
9 maintenance, and management of ORV, nonmotorized, and nonhighway road
10 recreation facilities ((and nonhighway road recreation facilities; ORV
11 user)), and for education ((and)), information ~~((,))~~, and ~~((ORV))~~ law
12 enforcement programs. During the fiscal year ending June 30, 2004, a
13 portion of these funds may be appropriated to the department of natural
14 resources to maintain and operate existing ORV and other recreation
15 facilities, including ORV campgrounds, for the state parks and
16 recreation commission to construct and upgrade trails and trail-related
17 facilities for both motorized and nonmotorized uses, and for other
18 activities identified in this section. The funds under this subsection
19 shall be expended in accordance with the following limitations, except
20 that during the fiscal year ending June 30, 2004, funds appropriated to
21 the committee from motor vehicle fuel tax revenues for the activities
22 in ~~((e)(iv)(B) and (C))~~ (d)(ii) of this subsection shall be reduced
23 by the amounts appropriated to the department of natural resources and
24 the state parks and recreation commission as provided in this
25 subsection:

26 ~~((A))~~ (i) Not more than ~~((twenty))~~ thirty percent may be expended
27 for ~~((ORV))~~ education, information, and law enforcement programs under
28 this chapter;

29 ~~((B) Not less than an amount equal to the funds received by the~~
30 ~~interagency committee for outdoor recreation under RCW 46.09.110 and~~
31 ~~not more than sixty percent may be expended for ORV recreation~~
32 ~~facilities;~~

33 ~~(C) Not more than twenty percent may be expended for nonhighway~~
34 ~~road recreation facilities))~~ (ii) Not less than seventy percent may be
35 expended for ORV, nonmotorized, and nonhighway road recreation
36 facilities. Except as provided in (d)(iii) of this subsection, of this
37 amount:

1 (A) Not less than thirty percent, together with the funds the
2 committee receives under RCW 46.09.110, may be expended for ORV
3 recreation facilities;

4 (B) Not less than thirty percent may be expended for nonmotorized
5 recreation facilities. Funds expended under this subsection
6 (2)(d)(ii)(B) shall be known as Ira Spring outdoor recreation
7 facilities funds; and

8 (C) Not less than thirty percent may be expended for nonhighway
9 road recreation facilities;

10 (iii) The committee may waive the minimum percentage cited in
11 (d)(ii) of this subsection due to insufficient requests for funds or
12 projects that score low in the committee's project evaluation. Funds
13 remaining after such a waiver must be allocated in accordance with
14 committee policy.

15 ~~((+2))~~ (3) On a yearly basis an agency may not, except as provided
16 in RCW 46.09.110, expend more than ten percent of the funds it receives
17 under this chapter for general administration expenses incurred in
18 carrying out this chapter.

19 ~~((+3))~~ (4) During the 2003-05 fiscal biennium, the legislature may
20 appropriate such amounts as reflect the excess fund balance in the
21 ~~((ORV))~~ NOVA account to the interagency committee for outdoor
22 recreation, the department of natural resources, the department of fish
23 and wildlife, and the state parks and recreation commission. This
24 appropriation is not required to follow the specific distribution
25 specified in subsection ~~((+1))~~ (2) of this section.

26 **Sec. 6.** RCW 46.09.170 and 2003 1st sp.s. c 25 s 922 and 2003 c 361
27 s 407 are each reenacted and amended to read as follows:

28 (1) From time to time, but at least once each year, the state
29 treasurer shall refund from the motor vehicle fund one percent of the
30 motor vehicle fuel tax revenues collected under chapter 82.36 RCW,
31 based on a tax rate of: (a) Nineteen cents per gallon of motor vehicle
32 fuel from July 1, 2003, through June 30, 2005; (b) twenty cents per
33 gallon of motor vehicle fuel from July 1, 2005, through June 30, 2007;
34 (c) twenty-one cents per gallon of motor vehicle fuel from July 1,
35 2007, through June 30, 2009; (d) twenty-two cents per gallon of motor
36 vehicle fuel from July 1, 2009, through June 30, 2011; and (e) twenty-

1 three cents per gallon of motor vehicle fuel beginning July 1, 2011,
2 and thereafter, less proper deductions for refunds and costs of
3 collection as provided in RCW 46.68.090.

4 (2) The treasurer shall place these funds in the general fund as
5 follows:

6 ~~((i) Forty))~~ (a) Thirty-six percent shall be credited to the ORV
7 and nonhighway vehicle account and administered by the department of
8 natural resources solely for acquisition, planning, development,
9 maintenance, and management of ORV, nonmotorized, and nonhighway road
10 recreation facilities, and information programs and maintenance of
11 nonhighway roads~~(, and nonhighway road recreation facilities. The~~
12 ~~funds under this subsection shall be expended in accordance with the~~
13 ~~following limitations:~~

14 ~~(A) Not more than five percent may be expended for information~~
15 ~~programs under this chapter;~~

16 ~~(B) Not less than ten percent and not more than fifty percent may~~
17 ~~be expended for ORV recreation facilities;~~

18 ~~(C) Not more than twenty five percent may be expended for~~
19 ~~maintenance of nonhighway roads;~~

20 ~~(D) Not more than fifty percent may be expended for nonhighway road~~
21 ~~recreation facilities;~~

22 ~~(E) Ten percent shall be transferred to the interagency committee~~
23 ~~for outdoor recreation for grants to law enforcement agencies in those~~
24 ~~counties where the department of natural resources maintains ORV~~
25 ~~facilities. This amount is in addition to those distributions made by~~
26 ~~the interagency committee for outdoor recreation under (e)(iv)(A) of~~
27 ~~this subsection));~~

28 ~~((ii))~~ (b) Three and one-half percent shall be credited to the
29 ORV and nonhighway vehicle account and administered by the department
30 of fish and wildlife solely for the acquisition, planning, development,
31 maintenance, and management of ORV, nonmotorized, and nonhighway
32 ~~((roads and))~~ road recreation facilities and the maintenance of
33 nonhighway roads;

34 ~~((iii))~~ (c) Two percent shall be credited to the ORV and
35 nonhighway vehicle account and administered by the parks and recreation
36 commission solely for the acquisition, planning, development,
37 maintenance, and management of ORV ~~((use areas and)),~~ nonmotorized, and
38 nonhighway road recreation facilities; and

1 ~~((iv) Fifty four))~~ (d) Fifty-eight and one-half percent ~~((~~
2 ~~together with the funds received by the interagency committee for~~
3 ~~outdoor recreation under RCW 46.09.110,))~~ shall be credited to the
4 nonhighway and off-road vehicle activities program account to be
5 administered by the committee for planning, acquisition, development,
6 maintenance, and management of ORV, nonmotorized, and nonhighway road
7 recreation facilities ~~((and nonhighway road recreation facilities; ORV~~
8 ~~user))~~ and for education ~~((and))~~, information ~~((+))~~, and ~~((ORV))~~ law
9 enforcement programs. The funds under this subsection shall be
10 expended in accordance with the following limitations:

11 ~~((A))~~ (i) Not more than ~~((twenty))~~ thirty percent may be expended
12 for ~~((ORV))~~ education, information, and law enforcement programs under
13 this chapter;

14 ~~((B) Not less than an amount equal to the funds received by the~~
15 ~~interagency committee for outdoor recreation under RCW 46.09.110 and~~
16 ~~not more than sixty percent may be expended for ORV recreation~~
17 ~~facilities;~~

18 ~~(C) Not more than twenty percent may be expended for nonhighway~~
19 ~~road recreation facilities))~~ (ii) Not less than seventy percent may be
20 expended for ORV, nonmotorized, and nonhighway road recreation
21 facilities. Except as provided in (d)(iii) of this subsection, of this
22 amount:

23 (A) Not less than thirty percent, together with the funds the
24 committee receives under RCW 46.09.110, may be expended for ORV
25 recreation facilities;

26 (B) Not less than thirty percent may be expended for nonmotorized
27 recreation facilities. Funds expended under this subsection
28 (2)(d)(ii)(B) shall be known as Ira Spring outdoor recreation
29 facilities funds; and

30 (C) Not less than thirty percent may be expended for nonhighway
31 road recreation facilities;

32 (iii) The committee may waive the minimum percentage cited in
33 (d)(ii) of this subsection due to insufficient requests for funds or
34 projects that score low in the committee's project evaluation. Funds
35 remaining after such a waiver must be allocated in accordance with
36 committee policy.

37 ~~((+2))~~ (3) On a yearly basis an agency may not, except as provided

1 in RCW 46.09.110, expend more than ten percent of the funds it receives
2 under this chapter for general administration expenses incurred in
3 carrying out this chapter.

4 ~~((3))~~ (4) During the 2003-05 fiscal biennium, the legislature may
5 appropriate such amounts as reflect the excess fund balance in the
6 ~~((ORV))~~ NOVA account to the interagency committee for outdoor
7 recreation, the department of natural resources, the department of fish
8 and wildlife, and the state parks and recreation commission. This
9 appropriation is not required to follow the specific distribution
10 specified in subsection ~~((1))~~ (2) of this section.

11 **Sec. 7.** RCW 46.09.240 and 1998 c 144 s 1 are each amended to read
12 as follows:

13 (1) After deducting administrative expenses and the expense of any
14 programs conducted under this chapter, the interagency committee for
15 outdoor recreation shall, at least once each year, distribute the funds
16 it receives under RCW 46.09.110 and 46.09.170 to state agencies,
17 counties, municipalities, federal agencies, nonprofit ORV
18 organizations, and Indian tribes. Funds distributed under this section
19 to nonprofit ORV organizations may be spent only on projects or
20 activities that benefit ORV recreation on lands once publicly owned
21 that come into private ownership in a federally approved land exchange
22 completed between January 1, 1998, and January 1, 2005.

23 (2) The committee shall adopt rules governing applications for
24 funds administered by the agency under this chapter and shall determine
25 the amount of money distributed to each applicant. Agencies receiving
26 funds under this chapter for capital purposes shall consider the
27 possibility of contracting with the state parks and recreation
28 commission, the department of natural resources, or other federal,
29 state, and local agencies to employ the youth development and
30 conservation corps or other youth crews in completing the project.

31 ~~((2) The interagency committee shall require each applicant for
32 land acquisition or development funds under this section to conduct,
33 before submitting the application, a public hearing in the nearest town
34 of five hundred population or more, and publish notice of such hearing
35 on the same day of each week for two consecutive weeks as follows:~~

36 ~~(a) In the newspaper of general circulation published nearest the
37 proposed project;~~

1 ~~(b) In the newspaper having the largest circulation in the county~~
2 ~~or counties where the proposed project is located; and~~

3 ~~(c) If the proposed project is located in a county with a~~
4 ~~population of less than forty thousand, the notice shall also be~~
5 ~~published in the newspaper having the largest circulation published in~~
6 ~~the nearest county that has a population of forty thousand or more.~~

7 ~~(3) The notice shall state that the purpose of the hearing is to~~
8 ~~solicit comments regarding an application being prepared for submission~~
9 ~~to the interagency committee for outdoor recreation for acquisition or~~
10 ~~development funds under the off road and nonhighway vehicle program.~~
11 ~~The applicant shall file notice of the hearing with the department of~~
12 ~~ecology at the main office in Olympia and shall comply with the State~~
13 ~~Environmental Policy Act, chapter 43.21C RCW. A written record and a~~
14 ~~magnetic tape recording of the hearing shall be included in the~~
15 ~~application.))~~

16 (3) The interagency committee for outdoor recreation shall require
17 each applicant for acquisition or development funds under this section
18 to comply with the requirements of either the state environmental
19 policy act, chapter 43.21C RCW, or the national environmental policy
20 act (42 U.S.C. Sec. 4321 et seq.).

21 **Sec. 8.** RCW 46.09.280 and 2003 c 185 s 1 are each amended to read
22 as follows:

23 (1) The interagency committee for outdoor recreation shall
24 establish the nonhighway and off-road vehicle activities advisory
25 committee to provide advice regarding the administration of this
26 chapter. The ((nonhighway and off road vehicle advisory)) committee
27 consists of governmental representatives, land managers, and a
28 proportional representation of persons with recreational experience in
29 areas identified in the most recent fuel use study, including but not
30 limited to people with ((off road vehicle)) ORV, hiking, equestrian,
31 mountain biking, hunting, fishing, and wildlife viewing experience.

32 ~~((Only representatives of organized ORV groups may be voting~~
33 ~~members of the committee with respect to)) (2) After the advisory
34 committee has made recommendations regarding the expenditure of the
35 fuel tax revenue portion of the nonhighway and off-road vehicle account
36 moneys, the advisory committee's ORV and mountain biking~~

1 recreationists, governmental representatives, and land managers will
2 make recommendations regarding the expenditure of funds received under
3 RCW 46.09.110.

4 (3) At least once a year, the interagency committee for outdoor
5 recreation, the department of natural resources, the department of fish
6 and wildlife, and the state parks and recreation commission shall
7 report to the nonhighway and off-road vehicle activities advisory
8 committee on the expenditures of funds received under RCW 46.09.110 and
9 46.09.170 and must proactively seek the advisory committee's advice
10 regarding proposed expenditures.

11 (4) The advisory committee shall advise these agencies regarding
12 the allocation of funds received under RCW 46.09.170 to ensure that
13 overall expenditures reflect consideration of the results of the most
14 recent fuel use study.

15 **Sec. 9.** RCW 46.09.050 and 1986 c 206 s 3 are each amended to read
16 as follows:

17 ORV use permits and ORV tags shall be required under the provisions
18 of this chapter except for the following:

19 (1) Off-road vehicles owned and operated by the United States,
20 another state, or a political subdivision thereof.

21 (2) Off-road vehicles owned and operated by this state, or by any
22 municipality or political subdivision thereof.

23 ~~(3) ((An off road vehicle operating in an organized competitive~~
24 ~~event on privately owned or leased land: PROVIDED, That if such leased~~
25 ~~land is owned by the state of Washington this exemption shall not apply~~
26 ~~unless the state agency exercising jurisdiction over the land in~~
27 ~~question specifically authorizes said competitive event: PROVIDED~~
28 ~~FURTHER, That such exemption shall be strictly construed.~~

29 ~~(4))~~ Off-road vehicles operated on agricultural lands owned or
30 leased by the ORV owner or operator ~~((or on lands which the operator~~
31 ~~has permission to operate without an ORV use permit))~~.

32 ~~((+5))~~ (4) Off-road vehicles owned by a resident of another state
33 that have a valid ORV permit or vehicle license issued in accordance
34 with the laws of the other state. This exemption shall apply only to
35 the extent that a similar exemption or privilege is granted under the
36 laws of that state.

1 ~~((6))~~ (5) Off-road vehicles while being used for search and
2 rescue purposes under the authority or direction of an appropriate
3 search and rescue or law enforcement agency.

4 ~~((7) Vehicles used primarily for construction or inspection
5 purposes during the course of a commercial operation.~~

6 ~~(8))~~ (6) Vehicles which are licensed pursuant to chapter 46.16 RCW
7 or in the case of nonresidents, vehicles which are validly licensed for
8 operation over public highways in the jurisdiction of the owner's
9 residence.

10 NEW SECTION. Sec. 10. A new section is added to chapter 46.09 RCW
11 to read as follows:

12 Except as provided in RCW 46.09.050, it is unlawful for any dealer
13 to sell at retail an off-road vehicle without an ORV use permit
14 required in RCW 46.09.040.

15 NEW SECTION. Sec. 11. (1) Section 3 of this act expires July 1,
16 2004.

17 (2) Section 4 of this act takes effect July 1, 2004.

18 (3) Section 5 of this act expires June 30, 2005.

19 (4) Section 6 of this act takes effect June 30, 2005.

Passed by the House March 9, 2004.

Passed by the Senate March 5, 2004.

Approved by the Governor March 24, 2004.

Filed in Office of Secretary of State March 24, 2004.