

SENATE BILL REPORT

SB 6687

As Reported By Senate Committee On:
Water, Energy & Environment, February 2, 2006

Title: An act relating to off-road vehicle noise.

Brief Description: Strengthening provisions governing ORV noise.

Sponsors: Senators Fraser and Kline.

Brief History:

Committee Activity: Water, Energy & Environment: 2/1/06, 2/2/06 [DPS, DNP].

SENATE COMMITTEE ON WATER, ENERGY & ENVIRONMENT

Majority Report: That Substitute Senate Bill No. 6687 be substituted therefor, and the substitute bill do pass.

Signed by Senators Poulsen, Chair; Rockefeller, Vice Chair; Fraser, Pridemore and Regala.

Minority Report: Do not pass.

Signed by Senators Morton, Ranking Minority Member; Delvin, Honeyford and Mulliken.

Staff: Richard Rodger (786-7461)

Background: In 1974, the Legislature directed the Department of Ecology (DOE) to adopt noise control rules in order to protect the public's health, safety, and welfare, along with property values and the environment. Local governments may adopt other noise standards if approved by DOE. Standards submitted to DOE become effective with 90 days if the department does not respond to the request for approval. Any person who violates DOE's noise control rules is subject to a civil penalty not to exceed \$100. The penalty is imposed by local governments, and does not preclude enforcement of separate local government noise ordinances.

The Interagency Committee for Outdoor Recreation (IAC) operates the Nonhighway and Off-Road Vehicle Activities Program (NOVA) that helps develop and manage recreation opportunities on roads open to the public, but not constructed with gasoline tax revenues. The program provides grants for planning, capital improvements, maintenance and operation, and off-road vehicle (ORV) education and enforcement. Program funds come from a portion of the motor vehicle gasoline tax, paid by users of ORVs and nonhighway roads, and from amounts paid for ORV use permits.

Summary of Substitute Bill: The Department of Ecology is directed to: (1) Evaluate the adverse effects of ORV noise in residential areas and include a review of successful neighborhood strategies; and (2) revise its environmental noise rules and sound level measurement. The new noise rules must strengthen the decibel standards as applied to ORV

noise, and create alternative methods for the measurement of ORV sound levels. These duties must be completed by June 30, 2007.

It is clarified that local governments may adopt noise standards more stringent than DOE's noise control rules. The penalties for violation of the noise control rules must not exceed \$250.

The interagency committee for outdoor recreation must convene a working group to develop and propose policy strategies relating to access to public and private lands for recreational off-road vehicle use, including noise issues, any recommended changes to the recreational use immunity statute, and proposals to ensure funding is available. The working group will include representatives of state agencies, county governments, the United States forest service, ORV recreational user groups, private land managers, the ORV industry, a non-motorized outdoor recreation advocate, an environmental organization, and local law enforcement. Four legislators may be appointed to act as liaisons to the Legislature. The working group must provide its recommendations to the Governor and Legislature by December 1, 2007.

If specific funding, for the purposes of sections two and six of this act, referencing the section by section number and by bill or chapter number, is not provided by June 30, 2006, each section not referenced is null and void.

Substitute Bill Compared to Original Bill: Modifies the intent section. Clarifies the DOE's rulemaking and adds a definition of ORV. Deletes the changes to the NOVA Account. Eliminates the graduated fines and replaces it with a fine not to exceed \$250. Adds new decibel level provisions. Adds an IAC working group to examine ORV access and noise issues. Adds a null and void clause.

Appropriation: None.

Fiscal Note: Available on original bill.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Communities and families throughout Washington are negatively impacted by unwanted noise from ORVs. This unwanted noise is intrusive, causes stress, reduces property values, and forces some individuals to sell their houses and move away. Those generating the noises are indifferent to the concerns of those impacted. The existing laws do not adequately protect communities and families from this type of noise. Noise and related ORV problems are on the rise, as sales of ORVs have greatly increased. Many concerned citizens, approaching ORV riders about noise complaints, have retaliated against with threats, vandalism, and violence. Law enforcement does not respond to complaints because it is a very low priority for them, plus they lack training, and have insufficient equipment and personnel. Additional options are needed to provide relief for homeowner subjected to this unwanted intrusion. Some ORV owners have replaced their factory issued mufflers with aftermarket products that make them even louder. Stronger noise restrictions in residential areas will trickle up and benefit public lands too.

Testimony Against: The intent section of the bill presents a very negative view of ORV users. Most ORV users are very considerate of their neighbors and are able to work out differences in their own communities. You shouldn't have to legislate being a good neighbor. This bill is unnecessary and will result in restrictions against using an ORV on your own property. The agency noise decibel regulations for neighborhoods are already so low (55db) that even little streams are about at that level. When the ORV Task Force ran a noise test on the Capital Campus, the construction noise was so loud you could barely hear the ORVs. Noise buffers are an effective tool to lessen the noise in neighborhoods. At ORV events, the vehicles are tested to ensure the mufflers do not violate noise standards, and the vehicles are not allowed to run if they fail the test. The standards proposed in the bill are vague and subjective. The money spent on this bill would be better spent on noise testing equipment for use by law enforcement officers. The NOVA account is already short, and money shouldn't be diverted from it to deal with neighborhood issues. The new penalties proposed in the bill are excessive and shock the conscience.

Testimony Other: This bill really concerns enforcement at the local level. DOE will be required to restart its Noise Program in order to undertake the rulemaking required by the bill and cover the expected ongoing duties. The rules are due in 15 months, which isn't sufficient time for DOE. The bill needs a clear definition for ORV. The expenditures required are not included in the Governor's budget.

Who Testified: PRO: Senator Karen Fraser, prime sponsor; Nancy Armstrong, Coalition Against Off Road Vehicle Nuisances (CORVN); Andrea Fontenot, CORVN; Leslie Seffern, CORVN; Dr. Trev Hauk, CORVN; Jonathan Guzzo, Washington Trails Association; Craig Engelking, Sierra Club.

CON: John Eaton; Washington Off Highway Vehicle Alliance (WOHVA); EdBushnell, WOHVA; Vicky Gray, WOHVA, Washington Motor Sports Dealers Association; Gary Jonhson, ALSD Surveyor; Kevin McGrath, Northwest Motorcycle Association; Barb Anderson, WOHVA, Northwest Outdoor Coalition, Seattle Motorcycle Club.

OTHER: Jerry Thielen, Department of Ecology.