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HOUSE BILL 3105

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State of Washington

59th Legislature

2006 Regular Session

By Representatives Hunt and Williams

Read first time 01/20/2006. Referred to Committee on Natural Resources, Ecology & Parks.

1 AN ACT Relating to noise problems from off-road and all-terrain  
2 vehicles; amending RCW 70.107.010, 70.107.050, and 70.107.060; adding  
3 new sections to chapter 70.107 RCW; and prescribing penalties.

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

5 **Sec. 1.** RCW 70.107.010 and 1974 ex.s. c 183 s 1 are each amended  
6 to read as follows:

7 The legislature finds that inadequately controlled noise adversely  
8 affects the health, safety and welfare of the people, the value of  
9 property, and the quality of the environment. Antinoise measures of  
10 the past have not adequately protected against the invasion of these  
11 interests by noise. In particular, the increase in off-road and  
12 all-terrain vehicle use in residential neighborhoods is inadequately  
13 controlled to protect peace and quiet in homes, the health of  
14 residents, and property values. There is a need, therefore, for ((an))  
15 a renewed expansion of efforts statewide with respect to off-road and  
16 all-terrain vehicle noise in residential neighborhoods, directed toward  
17 the abatement and control of noise, considering the social and economic  
18 impact upon the community and the state. The purpose of this chapter

1 is to provide authority for such an expansion of efforts, supplementing  
2 existing programs in the field.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 70.107 RCW  
4 to read as follows:

5 The department shall, by December 31, 2006, study the adverse  
6 effects on residential neighborhoods from the noise generated by  
7 off-road and all-terrain vehicles. Based upon its findings, the  
8 department shall revise the rules establishing maximum noise levels  
9 permissible in identified environments and related use standards  
10 relating to the reception of noise within those environments. The  
11 revisions must: (1) Strengthen the decibel standards as applied to  
12 off-road and all-terrain vehicles so that the standards are stringent  
13 enough to protect health, safety, and welfare in residential  
14 neighborhoods; and (2) identify enforcement alternatives such as  
15 measurable buffers or a narrative standard such as a "plainly audible  
16 at the property line" standard that can be easily measured by law  
17 enforcement in the field instead of requiring expensive and burdensome  
18 protocols for decibel measurement.

19 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.107 RCW  
20 to read as follows:

21 The interagency committee for outdoor recreation is directed to  
22 expand eligibility for the nonhighway and off-road vehicle activities  
23 program to include enforcement of nuisance noise complaints in  
24 residential areas on private lands by code compliance officials, zoning  
25 officials, department of health representatives, or community  
26 development representatives. The interagency committee for outdoor  
27 recreation shall educate eligible groups about the program to encourage  
28 them to apply for these funds.

29 **Sec. 4.** RCW 70.107.050 and 1987 c 103 s 2 are each amended to read  
30 as follows:

31 (1) Any person who violates any rule adopted by the department  
32 under this chapter (~~(shall be)~~) is subject to a civil penalty (~~(not to~~  
33 ~~exceed one hundred dollars)~~) imposed by local government pursuant to  
34 this section. Such penalties shall be as follows: One hundred dollars  
35 for the first violation; two hundred fifty dollars for the second

1 violation; and one thousand dollars for the third and every subsequent  
2 violation. An action under this section shall not preclude enforcement  
3 of any provisions of the local government noise ordinance.

4 Penalties shall become due and payable thirty days from the date of  
5 receipt of a notice of penalty unless within such time said notice is  
6 appealed in accordance with the administrative procedures of the local  
7 government, or if it has no such administrative appeal, to the  
8 pollution control hearings board pursuant to the provisions of chapter  
9 43.21B RCW and procedural rules adopted thereunder. In cases in which  
10 appeals are timely filed, penalties sustained by the local  
11 administrative agency or the pollution control hearings board shall  
12 become due and payable on the issuance of said agency or board's final  
13 order in the appeal.

14 (2) Whenever penalties incurred pursuant to this section have  
15 become due and payable but remain unpaid, the attorney for the local  
16 government may bring an action in the superior court of the county in  
17 which the violation occurred for recovery of penalties incurred. In  
18 all such actions the procedures and rules of evidence shall be the same  
19 as in any other civil action.

20 **Sec. 5.** RCW 70.107.060 and 1987 c 103 s 1 are each amended to read  
21 as follows:

22 (1) Nothing in this chapter (~~((shall be construed to deny))~~) denies,  
23 abridges, or alters alternative rights of action or remedies in equity  
24 or under common law or statutory law, criminal or civil.

25 (2) Nothing in this chapter (~~((shall deny))~~) denies, abridges, or  
26 alters any powers, duties, and functions relating to noise abatement  
27 and control now or hereafter vested in any state agency, nor shall this  
28 chapter be construed as granting jurisdiction over the industrial  
29 safety and health of employees in work places of the state, as now or  
30 hereafter vested in the department of labor and industries.

31 (3) Standards and other control measures adopted by the department  
32 under this chapter (~~((shall be))~~) are exclusive except as (~~((hereinafter))~~)  
33 provided in this subsection. A local government may impose limits that  
34 are more stringent, or control sources differing from those (~~((adopted~~  
35 ~~or~~)) controlled by the department upon a finding that such requirements  
36 are necessitated by special conditions. Noise limiting requirements of  
37 local government which differ from those adopted or controlled by the

1 department (~~shall be~~) are invalid unless first approved by the  
2 department. If the department of ecology fails to approve or  
3 disapprove standards submitted by local governmental jurisdictions  
4 within ninety days of submittal, such standards shall be deemed  
5 approved. If disapproved, the local government may appeal the decision  
6 to the pollution control hearings board which shall decide the appeal  
7 on the basis of the provisions of this chapter, and the applicable  
8 (~~regulations~~) rules, together with such briefs, testimony, and oral  
9 argument as the hearings board in its discretion may require. The  
10 department determination of whether to grant approval shall depend on  
11 the reasonableness and practicability of compliance. Particular  
12 attention shall be given to stationary sources located near  
13 jurisdictional boundaries, and temporary noise producing operations  
14 which may operate across one or more jurisdictional boundaries.

15 (4) In carrying out the rule-making authority provided in this  
16 chapter, the department shall follow the procedures of the  
17 administrative procedure act, chapter 34.05 RCW, and shall take care  
18 that no rules adopted purport to exercise any powers preempted by the  
19 United States under federal law.

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