
SUBSTITUTE SENATE BILL 6687

State of Washington

59th Legislature

2006 Regular Session

By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Fraser and Kline)

READ FIRST TIME 02/03/06.

1 AN ACT Relating to off-road vehicle noise; amending RCW 70.107.050,
2 70.107.060, and 46.09.120; creating new sections; prescribing
3 penalties; and providing an expiration date.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that, as the
6 population of Washington and the popularity of recreational off-road
7 vehicle use have increased, a growing number of informal off-road
8 vehicle tracks and riding areas have emerged in residential areas.
9 When excessive noise is generated by off-road vehicle use in such
10 areas, the residents of nearby properties may experience a negative
11 impact on property values, health, and the ability of the residents to
12 enjoy peace and quiet in their homes and yards.

13 The legislature finds that, despite their efforts, many of those
14 who live in close proximity to informal off-road vehicle riding areas
15 have been unable to prompt their local governments to address noise
16 issues.

17 Therefore, the legislature intends to strengthen provisions
18 governing off-road vehicle noise and to provide tools and resources to

1 state agencies, local government, and citizens, in order to better
2 protect individuals from the effects of excessive off-road vehicle
3 noise in residential areas.

4 NEW SECTION. **Sec. 2.** (1) The department of ecology shall, by June
5 30, 2007:

6 (a) Evaluate the adverse effects of off-road vehicle noise in
7 residential areas, including the evaluation of successful neighborhood
8 strategies as well as problems and challenges; and

9 (b) Revise the environmental noise rules and sound level
10 measurement procedures adopted under chapter 70.107 RCW in order to:

11 (i) Strengthen the decibel standards applied to off-road vehicle
12 noise in order to address the adverse effects where they are found by
13 the department pursuant to the evaluation under (a) of this subsection;
14 and

15 (ii) Create alternative methods for the measurement of off-road
16 vehicle sound levels or alternative environmental noise standards that
17 would allow for education about, and the enforcement of, noise
18 standards without requiring the use of expensive equipment or a
19 sophisticated measurement process.

20 (2) For the purposes of this section, "off-road vehicle" shall have
21 the same definition as provided in RCW 46.09.020.

22 **Sec. 3.** RCW 70.107.050 and 1987 c 103 s 2 are each amended to read
23 as follows:

24 (1) Any person who violates any rule adopted by the department
25 under this chapter shall be subject to a civil penalty not to exceed
26 (~~one~~) two hundred fifty dollars imposed by local government pursuant
27 to this section. An action under this section shall not preclude
28 enforcement of any provisions of the local government noise ordinance.

29 Penalties shall become due and payable thirty days from the date of
30 receipt of a notice of penalty unless within such time said notice is
31 appealed in accordance with the administrative procedures of the local
32 government, or if it has no such administrative appeal, to the
33 pollution control hearings board pursuant to the provisions of chapter
34 43.21B RCW and procedural rules adopted thereunder. In cases in which
35 appeals are timely filed, penalties sustained by the local

1 administrative agency or the pollution control hearings board shall
2 become due and payable on the issuance of said agency or board's final
3 order in the appeal.

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

10 **Sec. 4.** RCW 70.107.060 and 1987 c 103 s 1 are each amended to read
11 as follows:

12 (1) Nothing in this chapter shall be construed to deny, abridge or
13 alter alternative rights of action or remedies in equity or under
14 common law or statutory law, criminal or civil.

15 (2) Nothing in this chapter shall deny, abridge or alter any
16 powers, duties and functions relating to noise abatement and control
17 now or hereafter vested in any state agency, nor shall this chapter be
18 construed as granting jurisdiction over the industrial safety and
19 health of employees in work places of the state, as now or hereafter
20 vested in the department of labor and industries.

21 (3) Standards and other control measures adopted by the department
22 under this chapter shall be exclusive except as hereinafter provided.
23 A local government may impose limits or control (~~sources differing~~
24 ~~from~~) measures more stringent than those adopted or controlled by the
25 department upon a finding that such requirements are necessitated by
26 special conditions. Noise limiting requirements of local government
27 which differ from those adopted or controlled by the department shall
28 be invalid unless first approved by the department. If the department
29 of ecology fails to approve or disapprove standards submitted by local
30 governmental jurisdictions within ninety days of submittal, such
31 standards shall be deemed approved. If disapproved, the local
32 government may appeal the decision to the pollution control hearings
33 board which shall decide the appeal on the basis of the provisions of
34 this chapter, and the applicable regulations, together with such
35 briefs, testimony, and oral argument as the hearings board in its
36 discretion may require. The department determination of whether to
37 grant approval shall depend on the reasonableness and practicability of

1 compliance. Particular attention shall be given to stationary sources
2 located near jurisdictional boundaries, and temporary noise producing
3 operations which may operate across one or more jurisdictional
4 boundaries.

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

10 **Sec. 5.** RCW 46.09.120 and 2005 c 213 s 3 are each amended to read
11 as follows:

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

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

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

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

22 (d) Without a spark arrester approved by the department of natural
23 resources;

24 (e) Without an adequate, and operating, muffling device which
25 effectively limits vehicle noise to no more than eighty-six decibels on
26 the "A" scale at fifty feet as measured by the Society of Automotive
27 Engineers (SAE) test procedure J 331a, except that a maximum noise
28 level of one hundred and five decibels for vehicles manufactured before
29 January 1, 2007, or for vehicles manufactured after that date, ninety-
30 six decibels on the "A" scale at a distance of twenty inches from the
31 exhaust outlet shall be an acceptable substitute in lieu of the Society
32 of Automotive Engineers test procedure J 331a when measured:

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

35 (ii) With the vehicle stationary and the engine running at a steady
36 speed equal to one-half of the manufacturer's maximum allowable ("red
37 line") engine speed or where the manufacturer's maximum allowable

1 engine speed is not known the test speed in revolutions per minute
2 calculated as sixty percent of the speed at which maximum horsepower is
3 developed; and

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

8 (f) On lands not owned by the operator or owner of the nonhighway
9 vehicle upon the shoulder or inside bank or slope of any nonhighway
10 road or highway, or upon the median of any divided highway;

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

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

18 (i) On any public lands in violation of rules and regulations of
19 the agency administering such lands; and

20 (j) On a private nonhighway road in violation of RCW 46.09.115(3).

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

24 (3)(a) Except for an off-road vehicle equipped with seat belts and
25 roll bars or an enclosed passenger compartment, it is a traffic
26 infraction for any person to operate or ride an off-road vehicle on a
27 nonhighway road without wearing upon his or her head a motorcycle
28 helmet fastened securely while in motion. For purposes of this
29 section, "motorcycle helmet" has the same meaning as provided in RCW
30 46.37.530.

31 (b) Subsection (3)(a) of this section does not apply to an off-road
32 vehicle operator operating on his or her own land.

33 (c) Subsection (3)(a) of this section does not apply to an off-road
34 vehicle operator operating on agricultural lands owned or leased by the
35 off-road vehicle operator or the operator's employer.

36 NEW SECTION. **Sec. 6.** (1) The interagency committee for outdoor
37 recreation shall convene a working group to develop and propose policy

1 strategies and legislation to address issues relating to access to
2 public and private lands for recreational off-road vehicle use,
3 including:

4 (a) Proposals to improve and increase recreational off-road vehicle
5 use opportunities on public lands where such use is compatible with
6 other types of recreation and the environmental, habitat, and trust
7 responsibilities of the department of natural resources and other
8 public land managers, and to decrease use where it is not compatible;

9 (b) Proposals for addressing the conflicts and safety issues posed
10 by the growing pressure on public and private lands available for
11 recreational off-road vehicle use, including noise issues and any
12 recommended changes to the recreational use immunity statute, RCW
13 4.24.210; and

14 (c) Proposals to ensure the existence of the financial resources
15 necessary to provide access to appropriate public lands for
16 recreational off-road vehicle use, including funding for agency
17 planning and management activities, land stewardship and trail
18 maintenance, noise control, and education and enforcement programs.

19 (2) The working group consists of the following:

20 (a) One member from the department of natural resources, appointed
21 by the commissioner of public lands;

22 (b) One member from the department of fish and wildlife, appointed
23 by the director of the department of fish and wildlife;

24 (c) One member from the state parks and recreation commission,
25 appointed by the director of the state parks and recreation commission;

26 (d) One member from the interagency committee for outdoor
27 recreation, appointed by the director of the interagency committee for
28 outdoor recreation;

29 (e) Two members representing county governments, one county
30 commissioner each from an urban and a rural county, invited by the
31 governor;

32 (f) One member representing the United States forest service,
33 invited by the governor;

34 (g) Two members representing off-road vehicle recreational user
35 groups, invited by the governor;

36 (h) One member representing private land managers, invited by the
37 governor;

1 (i) One member representing the off-road vehicle industry, invited
2 by the governor;

3 (j) A representative of local law enforcement, selected by the
4 sheriffs and police chiefs association;

5 (k) Two members representing nonmotorized outdoor recreation,
6 invited by the governor;

7 (l) One representative of environmental organization, appointed by
8 the governor; and

9 (m) One representative of the department of ecology, appointed by
10 the director of ecology.

11 (3) The two members of the house of representatives, one from each
12 major caucus, may be appointed to the working group by the speaker of
13 the house of representatives, and two members of the senate, one from
14 each major caucus, may be appointed to the working group by the
15 president of the senate. Legislative members are nonvoting liaisons
16 representing the legislature.

17 (4) In carrying out its duties, the working group shall provide a
18 forum for interested citizens and organizations to provide information
19 and suggestions to the working group.

20 (5) The working group shall deliberate together in developing its
21 recommendations. A report shall be issued by the working group and may
22 contain majority reports and minority reports. The reports shall be
23 provided to the governor and legislature by December 1, 2007.

24 (6) This section expires June 30, 2008.

25 NEW SECTION. **Sec. 7.** If specific funding for the purposes of
26 sections 2 and 6 of this act, referencing the section by section number
27 and by bill or chapter number, is not provided by June 30, 2006, each
28 section not referenced is null and void.

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