

HOUSE BILL REPORT

SHB 1322

As Passed House:

March 2, 2021

Title: An act relating to off-road vehicle and snowmobile registration enforcement.

Brief Description: Addressing off-road vehicle and snowmobile registration enforcement.

Sponsors: House Committee on Transportation (originally sponsored by Representatives Wylie, Harris, Ortiz-Self and Eslick).

Brief History:

Committee Activity:

Transportation: 2/1/21, 2/19/21 [DPS].

Floor Activity:

Passed House: 3/2/21, 97-0.

Brief Summary of Substitute Bill

- Modifies the reciprocity provision that allows a person that has properly registered an off-road vehicle (ORV) in another state to use the vehicle in Washington without registering it here, such that the provision does not apply to residents from a state that does not impose a sales and use tax on transactions involving ORVs.
- Allows a person that is a resident of another state to register an ORV in Washington without paying a fee, if the person presents an unexpired driver's license and a current ORV registration from the other state when registering.
- Requires the Department of Licensing (DOL) and the Department of Revenue to jointly send out a letter to a Washington resident who purchased an ORV or snowmobile warranty in the preceding year, but who has not registered the vehicle in Washington, notifying the owner of the obligation to register and of the penalty for failure to register.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

- Establishes a gross misdemeanor for registering an ORV or a snowmobile in another state to avoid sales and use taxes and, for second and subsequent offenses, requires a fine equal to four times the amount of avoided taxes and fees be paid.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 29 members: Representatives Fey, Chair; Wylie, 1st Vice Chair; Bronoske, 2nd Vice Chair; Ramos, 2nd Vice Chair; Barkis, Ranking Minority Member; Eslick, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Volz, Assistant Ranking Minority Member; Berry, Chapman, Dent, Duerr, Entenman, Goehner, Griffey, Hackney, Klicker, Lovick, McCaslin, Orcutt, Paul, Ramel, Riccelli, Slatter, Sutherland, Taylor, Valdez, Walsh and Wicks.

Staff: Mark Matteson (786-7145).

Background:

Off-Road Vehicles.

An off-road vehicle (ORV) is a vehicle that is used for recreational purposes on nonhighway roads, trails, and other natural terrain. Off-road vehicles include all-terrain vehicles, certain motorcycles, dune buggies, and certain four-wheel drive vehicles.

A wheeled all-terrain vehicle (WATV) is a specific category of an ORV that is regulated separately under some aspects of a state law first enacted in 2013. There are two types of WATVs that are regulated with respect to travel on public roads. One is a motorized nonhighway vehicle with certain specifications: handlebars of 50 inches or less in width; a seat with a height of at least 20 inches; a maximum weight of 1,500 pounds; and four tires with a maximum diameter of 30 inches. The second is a utility-type vehicle (UTV) designed for and capable of travel over designated roads with certain specifications: four or more low-pressure tires of 20 pounds per square inch or less; a maximum width of less than 74 inches; a maximum weight of less than 2,000 pounds; and a wheelbase of 110 inches or less. The latter category of WATV must satisfy one of three additional specifications: a minimum width of 50 inches; a minimum weight of 900 pounds; or a wheelbase of over 61 inches.

An owner of an ORV other than a WATV that wishes to operate the vehicle in the state must first register the vehicle with the Department of Licensing (DOL) and pay a fee of \$18, along with any applicable taxes. An owner of a WATV must do the same, unless the owner also wants to register the vehicle for on-road travel, in which case the owner must pay an additional \$12. The DOL will issue a decal to the owner of an ORV other than a

WATV and a metal tag to the owner of a WATV. The decal or metal tag serves the same function as a license plate for on-road vehicles within Washington and, for states that have reciprocal laws governing out-of-state ORVs, allows the owner to operate the vehicle in that state.

An out-of-state owner of an ORV that is properly registered or permitted in another state may operate the vehicle without registering it in Washington if the other state has a reciprocal law that allows out-of-state residents with properly registered or permitted vehicles to operate there without having to register.

Snowmobiles.

Snowmobiles are self-propelled vehicles capable of traveling over snow and ice. Washington residents who purchase or bring in snowmobiles to the state are not required to apply for a certificate of title. However, like with ORVs that are purchased without sales tax, use tax is due when the vehicle is acquired or first brought into the state.

An owner must register the vehicle with the DOL before operating it and pay a \$50 fee. Upon receipt of payment, the DOL will issue the applicant a decal, which must be affixed to the right or left side of the snowmobile below the windshield. The decal serves the same function as a license plate for on-road vehicles within Washington and, for states that have reciprocal laws governing out-of-state snowmobiles, allows the owner to operate the vehicle in that state.

Motorsport Vehicle Manufacturers.

State law regulates the franchise relationship between motorsport vehicle manufacturers and dealers. A motorsport vehicle is an umbrella term that includes motorcycles, mopeds, motor-driven cycles, personal watercraft, snowmobiles, and four-wheeled all-terrain vehicles. Among the regulatory provisions are requirements concerning warranty work conducted by dealers and the manufacturers' responsibilities to compensate for such work.

Off-Road Vehicle and Snowmobile Registration Enforcement and Penalties.

Beginning in 2018, motorsports vehicle manufacturers are required to report annually to the DOL by the first business day in February a listing of all warranties for ORVs (including WATVs) and snowmobiles that were sold to Washington residents by out-of-state dealers in the previous calendar year. The DOL must examine the warranties listing provided by motorsports vehicle manufacturers to verify whether the vehicles are properly registered. By the end of February of each year, the DOL must notify the owner of the warranty of any ORV or snowmobile that is not properly registered of the owner's obligations under state law, as well as the penalties for failure to comply with the law.

The penalty for a resident that operates an ORV without proper registration is a traffic infraction, with a fine of at least \$25. The penalty for a resident that operates a snowmobile and fails to properly display the registration decal is a traffic infraction, with a fine of at least \$40. In addition, it is a gross misdemeanor to knowingly fail to register an ORV or a

snowmobile, or to knowingly fail to apply for a certificate of title for an ORV, within 15 days of receiving or refusing a notice issued by the DOL that the vehicle is not properly registered in the state.

Evaluation of Compliance with Off-Road Vehicle Registration Laws.

The 2020 Supplemental Transportation Budget enacted by the Legislature included a proviso directing the DOL to evaluate the effectiveness of recent legislation concerning ORVs in improving compliance with state laws relating to ORV registration, including the payment of sales and use taxes. The DOL found that over 60 percent of ORVs purchased out-of-state in 2019 and 2020 were not properly registered prior to the DOL notification described above. Following the DOL notification, owners of 29 percent of the ORVs not properly registered in 2019 then properly titled and/or registered the vehicles with the DOL; in 2020, the figure was 11 percent.

In its evaluation, the DOL recommended a couple of changes to potentially facilitate administration and compliance. One was to remove the requirement for the DOL to use certified mail to notify owners of vehicles not properly registered of the owner's requirements under law; the DOL indicated that the removal of the requirement will reduce costs without sacrificing the effectiveness of mailing. The DOL also recommended that the law be changed to require the DOL to notify the Department of Revenue (DOR) of owners who have not complied with tax and licensing requirements.

Summary of Substitute Bill:

The reciprocity provision that allows a resident of another state to use an ORV in Washington without registering it, as long as the other state has a similar exemption for Washington residents' use of ORVs in the other state, is modified to exclude residents from a state that borders Washington that does not impose a sales and use tax on ORVs. Any nonresident that registers an ORV in Washington is exempt from registration fees, if the nonresident presents an unexpired driver's license and a current ORV registration or permit from the other state at the time of registration in Washington.

After analyzing the warranties listing provided by motorsports vehicle manufacturers to verify whether ORVs and snowmobiles purchased by Washington residents in the preceding year are currently and properly registered, the DOL must transmit its analysis results to the DOR. The DOL and the DOR must jointly issue the letter notifying the owner of the warranty of any ORV or snowmobile that is not properly registered of the owner's obligations under state law and of associated penalties.

It is a gross misdemeanor to register an ORV or a snowmobile in another state to avoid sales and use taxes. Persons convicted of the gross misdemeanor a second or subsequent time must pay a fine equal to four times the amount of avoided taxes and fees. With respect to the gross misdemeanor for knowingly failing to title or register an ORV, or for knowingly failing to register a snowmobile, within 15 days of receiving notification from

the DOL and the DOR that a vehicle is not properly registered, a person convicted of a second or subsequent offense must pay a fine equal to four times the amount of avoided taxes and fees.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on October 1, 2021.

Staff Summary of Public Testimony:

(In support) There are a lot of good dealers in Washington. There are Washington residents who go all the way to Corvallis to buy and register the vehicle in Oregon to avoid Washington taxes and fees. This bill is virtually identical to the one that passed the Legislature last year. Last year, the bill was vetoed because the costs were not known, but now they are known. This is all about fairness.

Dealers are required to add three things to the purchase price of a vehicle: Washington sales taxes; ORV registration fees; and a dealer documentation fee. These charges increase the price of a vehicle to 10 percent more than what it is in Oregon. The current reciprocity agreement makes it legal to operate a vehicle purchased in Oregon, here in Washington, with just a \$10 ORV decal. Dealers here can not compete unless there is better enforcement of current law. The DOL reports show that the number of lost sales to Oregon dealers is about \$10 million annually. It is clear that the law needs to be strengthened, and conservative estimates show that there could be \$3 million in taxes recouped.

Motorsports dealers support this legislation. Reciprocity would otherwise work, except that Washington residents use it to evade paying sales tax.

This was not an issue for Washington dealers 25 years ago. Many of these vehicles have a price tag of \$20,000 to \$40,000. Washington residents buy Oregon vehicles and do not ever get caught.

Licensing fees control access and management. Hundreds of Washingtonians go down to Oregon each year to buy ORVs, costing the state millions of dollars in lost revenue. Then, these same people buy cheap two-year Oregon licenses for \$10 and then use the vehicles in Washington. The current reciprocity agreement has gifted Oregon dealers an unfair and unsustainable advantage. In the last few years, this has become a huge business in Oregon. They have sold 134,000 licenses to individuals as far away as Maine and Massachusetts. It is important to show what enforcement will do for Washington fiscally. The Department of Natural Resources stands to gain \$185,000 in access fees; the DOR: \$2.235 million in sales taxes; and the DOL: \$220,000 in license fees. Dealers stand to gain \$20 million in sales. Oregon riders still can register free under the bill.

(Opposed) The intent is good, but eliminating the out-of-state reciprocity provision with respect to Washington's largest tourism group is a bad idea. It will become much harder for Oregonians to recreate here. It is actually not legal for Washington residents to buy and use an Oregon ORV decal here. It makes more sense for the warranty letters to have teeth: require a response showing proof of tax payment and an automatic \$500 fine if no proof is shown. It is important to get the use tax back without affecting tourism.

(Other) Subagents would like to see a clarification in the legislation regarding the issuing and processing of temporary permits. This is a fairly labor-intensive transaction.

Persons Testifying: (In support) Representative Sharon Wylie, prime sponsor; Grant Nelson, Washington State Motorsports Dealers Association; Jim Boltz, Washington State Motorsports Dealers Association and Cycle Barn; John Jabusch, Washington State Motorsports Dealers Association and Pro Caliber Motorsports; and Linda Driscoll, Premier Polaris.

(Opposed) Jakob Perry, Washington Off Highway Vehicle Alliance.

(Other) Joe DePinto, Washington Association of Vehicle Subagents.

Persons Signed In To Testify But Not Testifying: None.