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**SECOND SUBSTITUTE SENATE BILL 5332**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** Senate Transportation (originally sponsored by Senator Padden)

READ FIRST TIME 02/04/22.

1 AN ACT Relating to off-road and wheeled all-terrain vehicles;  
2 amending RCW 46.09.442 and 46.09.457; and reenacting and amending RCW  
3 46.09.310.

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

5 **Sec. 1.** RCW 46.09.310 and 2013 2nd sp.s. c 23 s 3 are each  
6 reenacted and amended to read as follows:

7 The definitions in this section apply throughout this chapter  
8 unless the context clearly requires otherwise.

9 (1) "Advisory committee" means the nonhighway and off-road  
10 vehicle activities advisory committee established in RCW 46.09.340.

11 (2) "Board" means the recreation and conservation funding board  
12 established in RCW 79A.25.110.

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

16 (4) "Direct supervision" means that the supervising adult must be  
17 in a position, on another wheeled all-terrain vehicle or specialty  
18 off-highway vehicle or motorbike or, if on the ground, within a  
19 reasonable distance of the unlicensed operator, to provide close  
20 support, assistance, or direction to the unlicensed operator.

1 (5) "Emergency management" means the carrying out of emergency  
2 functions related to responding and recovering from emergencies and  
3 disasters, and to aid victims suffering from injury or damage,  
4 resulting from disasters caused by all hazards, whether natural,  
5 technological, or human caused, and to provide support for search and  
6 rescue operations for persons and property in distress.

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

13 (7) "Nonhighway road" means any road owned or managed by a public  
14 agency, a primitive road, or any private road for which the owner has  
15 granted an easement for public use for which appropriations from the  
16 motor vehicle fund were not used for (a) original construction or  
17 reconstruction in the last twenty-five years; or (b) maintenance in  
18 the last four years.

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

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

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

31 Nonhighway vehicle does not include:

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

34 (b) Snowmobiles or any military vehicles; or

35 (c) Any vehicle eligible for a motor vehicle fuel tax exemption  
36 or rebate under chapter 82.38 RCW while an exemption or rebate is  
37 claimed. This exemption includes but is not limited to farm,  
38 construction, and logging vehicles.

39 (11) "Nonmotorized recreational facilities" means recreational  
40 trails and facilities that are adjacent to, or accessed by, a

1 nonhighway road and intended primarily for nonmotorized recreational  
2 users.

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

9 (13) "Off-road vehicle" or "ORV" has the same meaning as in RCW  
10 46.04.365.

11 (14) "Organized competitive event" means any competition,  
12 advertised in advance through written notice to organized clubs or  
13 published in local newspapers, sponsored by recognized clubs, and  
14 conducted at a predetermined time and place.

15 ((~~14~~)) (15) "ORV recreation facilities" include, but are not  
16 limited to, ORV trails, trailheads, campgrounds, ORV sports parks,  
17 and ORV use areas, designated for ORV use by the managing authority.

18 ((~~15~~)) (16) "ORV recreational user" means a person whose  
19 purpose for consuming fuel on nonhighway roads or off-road is  
20 primarily for ORV recreational purposes, including but not limited to  
21 riding an all-terrain vehicle, motorcycling, or driving a four-wheel  
22 drive vehicle or dune buggy.

23 ((~~16~~)) (17) "ORV sports park" means a facility designed to  
24 accommodate competitive ORV recreational uses including, but not  
25 limited to, motocross racing, four-wheel drive competitions, and flat  
26 track racing. Use of ORV sports parks can be competitive or  
27 noncompetitive in nature.

28 ((~~17~~)) (18) "ORV trail" means a multiple-use corridor  
29 designated by the managing authority and maintained for recreational  
30 use by motorized vehicles.

31 ((~~18~~)) (19) "Primitive road" means a linear route managed for  
32 use by four-wheel drive or high-clearance vehicles that is generally  
33 not maintained or paved, a road designated by a county as primitive  
34 under RCW 36.75.300, or a road designated by a city or town as  
35 primitive under a local ordinance.

36 ((~~19~~)) (20) "Wheeled all-terrain vehicle" means (a) any  
37 motorized nonhighway vehicle with handlebars that is fifty inches or  
38 less in width, has a seat height of at least twenty inches, weighs  
39 less than one thousand five hundred pounds, and has four tires having  
40 a diameter of thirty inches or less, or (b) a utility-type vehicle

1 designed for and capable of travel over designated roads that travels  
2 on four or more low-pressure tires of twenty psi or less, has a  
3 maximum width less than seventy-four inches, has a maximum weight  
4 less than two thousand pounds, has a wheelbase of one hundred ten  
5 inches or less, and satisfies at least one of the following: (i) Has  
6 a minimum width of fifty inches; (ii) has a minimum weight of at  
7 least nine hundred pounds; or (iii) has a wheelbase of over sixty-one  
8 inches.

9       **Sec. 2.** RCW 46.09.442 and 2021 c 216 s 4 are each amended to  
10 read as follows:

11       (1) Any wheeled all-terrain vehicle operated within this state  
12 must display a metal tag to be affixed to the rear of the wheeled  
13 all-terrain vehicle. The initial metal tag must be issued with an  
14 original off-road vehicle registration and, except as provided in  
15 subsection (7) of this section, upon payment of the initial vehicle  
16 license fee under RCW 46.17.350(1)(s). The metal tag must be replaced  
17 every seven years at a cost of two dollars. Revenue from replacement  
18 metal tags must be deposited into the nonhighway and off-road vehicle  
19 activities program account. The department must design the metal tag,  
20 which must:

21       (a) Be the same size as a motorcycle license plate;

22       (b) Have the words "RESTRICTED VEHICLE" listed at the top of the  
23 tag;

24       (c) Contain designated identification through a combination of  
25 letters and numbers;

26       (d) Leave space at the bottom left corner of the tag for an off-  
27 road tab issued under subsection (2) of this section; and

28       (e) Leave space at the bottom right corner of the tag for an on-  
29 road tab, when required, issued under subsection (3) of this section.

30       (2) Except as provided in subsections (6)(b) and (7) of this  
31 section, a person who operates a wheeled all-terrain vehicle must  
32 have a current and proper off-road vehicle registration, with the  
33 appropriate off-road tab, ~~((and))~~ pay the annual vehicle license fee  
34 as provided in RCW 46.17.350(1)(s), which must be deposited into the  
35 nonhighway and off-road vehicle activities program account, and  
36 comply with equipment requirements as provided in RCW 46.09.470. The  
37 off-road tab must be issued annually by the department upon payment  
38 of initial and renewal vehicle license fees under RCW

1 46.17.350(1)(s), except as provided in subsection (7) of this  
2 section.

3 (3) Except as provided in subsections (6)(a) and (7) of this  
4 section, a person who operates a wheeled all-terrain vehicle upon a  
5 public roadway must have a current and proper on-road vehicle  
6 registration, with the appropriate on-road tab, which must be of a  
7 bright color that can be seen from a reasonable distance, ~~((and))~~ pay  
8 the annual vehicle license fee as provided in RCW 46.17.350(1)(r),  
9 and comply with the on-road equipment and declaration requirements  
10 for wheeled all-terrain vehicles as provided in RCW 46.09.457. The  
11 on-road tab must be issued annually by the department upon payment of  
12 initial and renewal vehicle license fees under RCW 46.17.350(1)(r),  
13 except as provided in subsection (7) of this section.

14 (4) Beginning July 1, 2017, for purposes of subsection (3) of  
15 this section, a special year tab issued pursuant to chapter 46.19 RCW  
16 to a person with a disability may be displayed on a wheeled all-  
17 terrain vehicle in lieu of an on-road tab.

18 (5) A wheeled all-terrain vehicle may not be registered for  
19 commercial use.

20 (6)(a) A wheeled all-terrain vehicle registration and a metal tag  
21 are not required under this chapter for a wheeled all-terrain vehicle  
22 that meets the definition in RCW 46.09.310(~~((19))~~) (20), is owned by  
23 a resident of another state, and has a vehicle registration and metal  
24 tag or license plate issued in accordance with the laws of the other  
25 state allowing for on-road travel in that state. This exemption  
26 applies only to the extent that: (i) A similar exemption or privilege  
27 is granted under the laws of that state for wheeled all-terrain  
28 vehicles registered in Washington, and (ii) the other state has  
29 equipment requirements for on-road use that meet or exceed the  
30 requirements listed in RCW 46.09.457. The department may publish on  
31 its website a list of states that meet the exemption requirements  
32 under this subsection. The exemption in this subsection does not  
33 apply to a wheeled all-terrain vehicle owned by a resident of a state  
34 that borders Washington and that does not impose a retail sales and  
35 use tax on the sales or use of wheeled all-terrain vehicles.

36 (b) Off-road operation in Washington state of a wheeled all-  
37 terrain vehicle owned by a resident of another state and meeting the  
38 definition in RCW 46.09.310(~~((19))~~) (20) is governed in the same  
39 manner as for other off-road vehicles under RCW 46.09.420(4).

1 (7) (a) No fee is required with an application for an original ORV  
2 registration or the renewal of an ORV registration, if the vehicle is  
3 also properly registered or permitted in another state to a resident  
4 of the state, and, at the time of application, the resident presents  
5 the following documents issued by the other state: (i) The resident's  
6 unexpired driver's license; and (ii) the current registration or  
7 permit for the off-road vehicle.

8 (b) The department must issue a metal tag and either the off-road  
9 tab, on-road tab, or both, as appropriate, following the ORV  
10 registration under (a) of this subsection.

11 **Sec. 3.** RCW 46.09.457 and 2016 c 84 s 4 are each amended to read  
12 as follows:

13 (1) A person may operate a wheeled all-terrain vehicle upon any  
14 public roadway of this state, not including nonhighway roads and  
15 trails, subject to RCW 46.09.455 and the following equipment and  
16 declaration requirements:

17 (a) A person who operates a wheeled all-terrain vehicle on a  
18 public roadway as authorized under RCW 46.09.455 must comply with the  
19 following equipment requirements:

20 (i) Headlights meeting the requirements of RCW 46.37.030 and  
21 46.37.040 and used at all times when the vehicle is in motion upon a  
22 highway;

23 (ii) One tail lamp meeting the requirements of RCW 46.37.525 and  
24 used at all times when the vehicle is in motion upon a highway;  
25 however, a utility-type vehicle, as described under RCW 46.09.310,  
26 must have two tail lamps meeting the requirements of RCW 46.37.070(1)  
27 and to be used at all times when the vehicle is in motion upon a  
28 highway;

29 (iii) A stop lamp meeting the requirements of RCW 46.37.200;

30 (iv) Reflectors meeting the requirements of RCW 46.37.060;

31 (v) During hours of darkness, as defined in RCW 46.04.200, turn  
32 signals meeting the requirements of RCW 46.37.200. Outside of hours  
33 of darkness, the operator must comply with RCW 46.37.200 or  
34 46.61.310;

35 (vi) A mirror attached to either the right or left handlebar,  
36 which must be located to give the operator a complete view of the  
37 highway for a distance of at least two hundred feet to the rear of  
38 the vehicle; however, a utility-type vehicle, as described under RCW

1 46.09.310(~~(19)~~) (20), must have two mirrors meeting the  
2 requirements of RCW 46.37.400;

3 (vii) A windshield meeting the requirements of RCW 46.37.430,  
4 unless the operator wears glasses, goggles, or a face shield while  
5 operating the vehicle, of a type conforming to rules adopted by the  
6 Washington state patrol;

7 (viii) A horn or warning device meeting the requirements of RCW  
8 46.37.380;

9 (ix) Brakes in working order;

10 (x) A spark arrester and muffling device meeting the requirements  
11 of RCW 46.09.470; and

12 (xi) For utility-type vehicles, as described under RCW  
13 46.09.310(~~(19)~~) (20), seat belts meeting the requirements of RCW  
14 46.37.510.

15 (b) A person who operates a wheeled all-terrain vehicle upon a  
16 public roadway must provide a declaration that includes the  
17 following:

18 (i) Documentation of a safety inspection to be completed by a  
19 licensed wheeled all-terrain vehicle dealer or motor vehicle repair  
20 shop in the state of Washington that must outline the vehicle  
21 information and certify under oath that all wheeled all-terrain  
22 vehicle equipment as required under this section meets the  
23 requirements outlined in state and federal law. A person who makes a  
24 false statement regarding the inspection of equipment required under  
25 this section is guilty of false swearing, a gross misdemeanor, under  
26 RCW 9A.72.040;

27 (ii) Documentation that the licensed wheeled all-terrain vehicle  
28 dealer or motor vehicle repair shop did not charge more than fifty  
29 dollars per safety inspection and that the entire safety inspection  
30 fee is paid directly and only to the licensed wheeled all-terrain  
31 vehicle dealer or motor vehicle repair shop;

32 (iii) A statement that the licensed wheeled all-terrain vehicle  
33 dealer or motor vehicle repair shop is entitled to the full amount  
34 charged for the safety inspection;

35 (iv) A vehicle identification number verification that must be  
36 completed by a licensed wheeled all-terrain vehicle dealer or motor  
37 vehicle repair shop in the state of Washington;

38 (v) A release, on a form to be supplied by the department, signed  
39 by the owner of the wheeled all-terrain vehicle and verified by the  
40 department, county auditor or other agent, or subagent appointed by

1 the director that releases the state, counties, cities, and towns  
2 from any liability; and

3 (vi) A statement that outlines that the owner understands that  
4 the original wheeled all-terrain vehicle was not manufactured for on-  
5 road use and that it has been modified for use on public roadways.

6 (2) This section does not apply to emergency services vehicles,  
7 vehicles used for emergency management purposes, or vehicles used in  
8 the production of agricultural and timber products on and across  
9 lands owned, leased, or managed by the owner or operator of the  
10 wheeled all-terrain vehicle or the operator's employer.

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