
SUBSTITUTE SENATE BILL 5332

State of Washington

67th Legislature

2021 Regular Session

By Senate Transportation (originally sponsored by Senator Padden)

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 2016 c 84 s 3 are each amended to read
10 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 upon payment of the
15 initial vehicle license fee under RCW 46.17.350(1)(s). The metal tag
16 must be replaced every seven years at a cost of two dollars. Revenue
17 from replacement metal tags must be deposited into the nonhighway and
18 off-road vehicle activities program account. The department must
19 design the metal tag, which must:

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

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

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

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

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

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

38 (3) Except as provided in subsection (6)(a) of this section, a
39 person who operates a wheeled all-terrain vehicle upon a public

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

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

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

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

28 (b) Off-road operation in Washington state of a wheeled all-
29 terrain vehicle owned by a resident of another state and meeting the
30 definition in RCW 46.09.310(~~((19))~~) (20) is governed by RCW
31 46.09.420(4).

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

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

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

4 (i) Headlights meeting the requirements of RCW 46.37.030 and
5 46.37.040 and used at all times when the vehicle is in motion upon a
6 highway;

7 (ii) One tail lamp meeting the requirements of RCW 46.37.525 and
8 used at all times when the vehicle is in motion upon a highway;
9 however, a utility-type vehicle, as described under RCW 46.09.310,
10 must have two tail lamps meeting the requirements of RCW 46.37.070(1)
11 and to be used at all times when the vehicle is in motion upon a
12 highway;

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

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

15 (v) During hours of darkness, as defined in RCW 46.04.200, turn
16 signals meeting the requirements of RCW 46.37.200. Outside of hours
17 of darkness, the operator must comply with RCW 46.37.200 or
18 46.61.310;

19 (vi) A mirror attached to either the right or left handlebar,
20 which must be located to give the operator a complete view of the
21 highway for a distance of at least two hundred feet to the rear of
22 the vehicle; however, a utility-type vehicle, as described under RCW
23 46.09.310(~~((19))~~) (20), must have two mirrors meeting the
24 requirements of RCW 46.37.400;

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

29 (viii) A horn or warning device meeting the requirements of RCW
30 46.37.380;

31 (ix) Brakes in working order;

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

34 (xi) For utility-type vehicles, as described under RCW
35 46.09.310(~~((19))~~) (20), seat belts meeting the requirements of RCW
36 46.37.510.

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

1 (i) Documentation of a safety inspection to be completed by a
2 licensed wheeled all-terrain vehicle dealer or motor vehicle repair
3 shop in the state of Washington that must outline the vehicle
4 information and certify under oath that all wheeled all-terrain
5 vehicle equipment as required under this section meets the
6 requirements outlined in state and federal law. A person who makes a
7 false statement regarding the inspection of equipment required under
8 this section is guilty of false swearing, a gross misdemeanor, under
9 RCW 9A.72.040;

10 (ii) Documentation that the licensed wheeled all-terrain vehicle
11 dealer or motor vehicle repair shop did not charge more than fifty
12 dollars per safety inspection and that the entire safety inspection
13 fee is paid directly and only to the licensed wheeled all-terrain
14 vehicle dealer or motor vehicle repair shop;

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

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

21 (v) A release, on a form to be supplied by the department, signed
22 by the owner of the wheeled all-terrain vehicle and verified by the
23 department, county auditor or other agent, or subagent appointed by
24 the director that releases the state, counties, cities, and towns
25 from any liability; and

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

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

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