

CERTIFICATION OF ENROLLMENT

SENATE BILL 5482

61st Legislature
2009 Regular Session

Passed by the Senate April 19, 2009
YEAS 32 NAYS 14

President of the Senate

Passed by the House April 9, 2009
YEAS 59 NAYS 38

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5482** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 5482

AS AMENDED BY THE HOUSE

Passed Legislature - 2009 Regular Session

State of Washington 61st Legislature 2009 Regular Session

By Senators Haugen and Swecker; by request of Washington State Patrol
Read first time 01/23/09. Referred to Committee on Transportation.

1 AN ACT Relating to two-wheeled and three-wheeled vehicles; amending
2 RCW 46.04.304, 46.04.330, 46.04.336, 46.37.530, 46.44.050, 46.61.610,
3 46.61.688, and 46.61.710; reenacting and amending RCW 46.20.500; and
4 adding a new section to chapter 47.36 RCW.

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

6 **Sec. 1.** RCW 46.04.304 and 1990 c 250 s 18 are each amended to read
7 as follows:

8 "Moped" means a motorized device designed to travel with not more
9 than three (~~sixteen-inch or larger diameter~~) wheels in contact with
10 the ground(~~(, having fully operative pedals for propulsion by human~~
11 ~~power,)) and having an electric or a liquid fuel motor with a cylinder
12 displacement not exceeding fifty cubic centimeters which produces no
13 more than two gross brake horsepower (developed by a prime mover, as
14 measured by a brake applied to the driving shaft) that is capable of
15 propelling the device at not more than thirty miles per hour on level
16 ground.~~

17 (~~The Washington state patrol may approve of and define as a~~
18 ~~"moped" a vehicle which fails to meet these specific criteria, but~~

1 ~~which is essentially similar in performance and application to~~
2 ~~motorized devices which do meet these specific criteria.))~~

3 **Sec. 2.** RCW 46.04.330 and 2003 c 141 s 3 are each amended to read
4 as follows:

5 "Motorcycle" means a motor vehicle designed to travel on not more
6 than three wheels in contact with the ground, on which the driver:

7 (1) Rides ((~~astride the motor unit or power train~~)) on a seat or
8 saddle and the motor vehicle is designed to be steered with a handle
9 bar((~~, but excluding~~)); or

10 (2) Rides on a seat in a partially or completely enclosed seating
11 area that is equipped with safety belts and the motor vehicle is
12 designed to be steered with a steering wheel.

13 "Motorcycle" excludes a farm tractor, a power wheelchair, an
14 electric personal assistive mobility device, a motorized foot scooter,
15 an electric-assisted bicycle, and a moped.

16 ~~((The Washington state patrol may approve of and define as a~~
17 ~~"motorcycle" a motor vehicle that fails to meet these specific~~
18 ~~criteria, but that is essentially similar in performance and~~
19 ~~application to motor vehicles that do meet these specific criteria.))~~

20 **Sec. 3.** RCW 46.04.336 and 2003 c 353 s 6 are each amended to read
21 as follows:

22 "Motorized foot scooter" means a device with no more than two ten-
23 inch or smaller diameter wheels that has handlebars, is designed to be
24 stood ((~~or sat~~)) upon by the operator, and is powered by an internal
25 combustion engine or electric motor that is capable of propelling the
26 device with or without human propulsion at a speed no more than twenty
27 miles per hour on level ground.

28 For purposes of this section, a motor-driven cycle, a moped, an
29 electric-assisted bicycle, or a motorcycle is not a motorized foot
30 scooter.

31 **Sec. 4.** RCW 46.20.500 and 2003 c 353 s 9, 2003 c 141 s 7, and 2003
32 c 41 s 1 are each reenacted and amended to read as follows:

33 (1) No person may drive either a two-wheeled or a three-wheeled
34 motorcycle, or a motor-driven cycle unless such person has a valid

1 driver's license specially endorsed by the director to enable the
2 holder to drive such vehicles.

3 (2) However, a person sixteen years of age or older, holding a
4 valid driver's license of any class issued by the state of the person's
5 residence, may operate a moped without taking any special examination
6 for the operation of a moped.

7 (3) No driver's license is required for operation of an electric-
8 assisted bicycle if the operator is at least sixteen years of age.
9 Persons under sixteen years of age may not operate an electric-assisted
10 bicycle.

11 (4) No driver's license is required to operate an electric personal
12 assistive mobility device or a power wheelchair.

13 (5) No driver's license is required to operate a motorized foot
14 scooter. Motorized foot scooters may not be operated at any time from
15 a half hour after sunset to a half hour before sunrise without
16 reflectors of a type approved by the state patrol.

17 (6) A person holding a valid driver's license may operate a
18 motorcycle as defined under RCW 46.04.330(2) without a motorcycle
19 endorsement.

20 **Sec. 5.** RCW 46.37.530 and 2003 c 197 s 1 are each amended to read
21 as follows:

22 (1) It is unlawful:

23 (a) For any person to operate a motorcycle, moped, or motor-driven
24 cycle not equipped with mirrors on the left and right sides (~~of the~~
25 ~~motorcycle~~)) which shall be so located as to give the driver a complete
26 view of the highway for a distance of at least two hundred feet to the
27 rear of the motorcycle, moped, or motor-driven cycle: PROVIDED, That
28 mirrors shall not be required on any motorcycle or motor-driven cycle
29 over twenty-five years old originally manufactured without mirrors and
30 which has been restored to its original condition and which is being
31 ridden to or from or otherwise in conjunction with an antique or
32 classic motorcycle contest, show, or other such assemblage: PROVIDED
33 FURTHER, That no mirror is required on any motorcycle manufactured
34 prior to January 1, 1931;

35 (b) For any person to operate a motorcycle, moped, or motor-driven
36 cycle which does not have a windshield unless wearing glasses, goggles,

1 or a face shield of a type conforming to rules adopted by the state
2 patrol;

3 (c) For any person to operate or ride upon a motorcycle, motor-
4 driven cycle, or moped on a state highway, county road, or city street
5 unless wearing upon his or her head a motorcycle helmet except when the
6 vehicle is an antique motor-driven cycle or (~~automobile that is~~
7 ~~licensed as a motorcycle or~~) when the vehicle is equipped with (~~seat~~
8 ~~belts and roll bars approved by the state patrol~~) all of the
9 following:

10 (i) Steering wheel;

11 (ii) Seat belts that conform to standards prescribed under 49
12 C.F.R. Part 571; and

13 (iii) Partially or completely enclosed seating area for the driver
14 and passenger that is certified by the manufacturer as meeting the
15 standards prescribed under 49 C.F.R. Sec. 571.216.

16 The motorcycle helmet neck or chin strap must be fastened securely
17 while the motorcycle, moped, or motor-driven cycle is in motion.
18 Persons operating electric-assisted bicycles and motorized foot
19 scooters shall comply with all laws and regulations related to the use
20 of bicycle helmets;

21 (d) For any person to transport a child under the age of five on a
22 motorcycle or motor-driven cycle;

23 (e) For any person to sell or offer for sale a motorcycle helmet
24 that does not meet the requirements established by this section.

25 (2) The state patrol may adopt and amend rules(~~, pursuant to the~~
26 ~~Administrative Procedure Act,~~) concerning standards for glasses,
27 goggles, and face shields.

28 (3) For purposes of this section, "motorcycle helmet" means a
29 protective covering for the head consisting of a hard outer shell,
30 padding adjacent to and inside the outer shell, and a neck or chin
31 strap type retention system, with (~~a sticker~~) the manufacturer's
32 certification applied in accordance with 49 C.F.R. Sec. 571.218
33 indicating that the motorcycle helmet meets standards established by
34 the United States department of transportation.

35 **Sec. 6.** RCW 46.44.050 and 1979 ex.s. c 213 s 7 are each amended to
36 read as follows:

37 It shall be unlawful to operate any vehicle upon public highways

1 with a wheelbase between any two axles thereof of less than three feet,
2 six inches when weight exceeds that allowed for one axle under RCW
3 46.44.042 or 46.44.041. It shall be unlawful to operate any motor
4 vehicle upon the public highways of this state with a wheelbase between
5 the frontmost axle and the rearmost axle of less than three feet, six
6 inches(~~(+PROVIDED, That the minimum wheelbase for mopeds is thirty-~~
7 ~~eight inches)~~)).

8 For the purposes of this section, wheelbase shall be measured upon
9 a straight line from center to center of the vehicle axles designated.

10 **Sec. 7.** RCW 46.61.610 and 1975 c 62 s 37 are each amended to read
11 as follows:

12 A person operating a motorcycle shall ride only upon the permanent
13 and regular seat attached thereto, and such operator shall not carry
14 any other person nor shall any other person ride on a motorcycle unless
15 such motorcycle is designed to carry more than one person, in which
16 event a passenger may ride upon the permanent and regular seat if
17 designed for two persons, or upon another seat firmly attached to the
18 motorcycle at the rear or side of the operator(~~(+PROVIDED, HOWEVER,~~
19 ~~That)~~). However, the motorcycle must contain foot pegs(, ~~of a type~~
20 ~~approved by the equipment commission,~~) or be equipped with an
21 additional bucket seat and seat belt meeting standards prescribed under
22 49 C.F.R. Part 571 for each person such motorcycle is designed to
23 carry.

24 **Sec. 8.** RCW 46.61.688 and 2007 c 510 s 5 are each amended to read
25 as follows:

26 (1) For the purposes of this section, (~~the term~~) "motor vehicle"
27 includes:

28 (a) "Motorcycle," meaning a three-wheeled motor vehicle that is
29 designed (i) so that the driver rides on a seat in a partially or
30 completely enclosed seating area that is equipped with safety belts and
31 (ii) to be steered with a steering wheel.

32 (b) "Buses," meaning motor vehicles with motive power, except
33 trailers, designed to carry more than ten passengers;

34 (~~(b)~~) (c) "Multipurpose passenger vehicles," meaning motor
35 vehicles with motive power, except trailers, designed to carry ten

1 persons or less that are constructed either on a truck chassis or with
2 special features for occasional off-road operation;

3 ((+e)) (d) "Neighborhood electric vehicle," meaning a self-
4 propelled, electrically powered four-wheeled motor vehicle whose speed
5 attainable in one mile is more than twenty miles per hour and not more
6 than twenty-five miles per hour and conforms to federal regulations
7 under 49 C.F.R. Sec. 571.500;

8 ((+d)) (e) "Medium-speed electric vehicle" meaning a self-
9 propelled, electrically powered four-wheeled motor vehicle, equipped
10 with a roll cage or crush-proof body design, whose speed attainable in
11 one mile is more than thirty miles per hour but not more than thirty-
12 five miles per hour and otherwise meets or exceeds the federal
13 regulations set forth in 49 C.F.R. Sec. 571.500;

14 ((+e)) (f) "Passenger cars," meaning motor vehicles with motive
15 power, except multipurpose passenger vehicles, motorcycles, or
16 trailers, designed for carrying ten passengers or less; and

17 ((+f)) (g) "Trucks," meaning motor vehicles with motive power,
18 except trailers, designed primarily for the transportation of property.

19 (2)(a) This section only applies to:

20 (i) Motor vehicles that meet the manual seat belt safety standards
21 as set forth in ~~((federal motor vehicle safety standard 208 and to))~~ 49
22 C.F.R. Sec. 571.208;

23 (ii) Motorcycles, when equipped with safety belts that meet the
24 standards set forth in 49 C.F.R. Part 571; and

25 (iii) Neighborhood electric vehicles and medium-speed electric
26 vehicles that meet the seat belt standards as set forth in 49 C.F.R.
27 Sec. 571.500.

28 (b) This section does not apply to a vehicle occupant for whom no
29 safety belt is available when all designated seating positions as
30 required ~~((by federal motor vehicle safety standard 208))~~ under 49
31 C.F.R. Part 571 are occupied.

32 (3) Every person sixteen years of age or older operating or riding
33 in a motor vehicle shall wear the safety belt assembly in a properly
34 adjusted and securely fastened manner.

35 (4) No person may operate a motor vehicle unless all child
36 passengers under the age of sixteen years are either: (a) Wearing a
37 safety belt assembly or (b) are securely fastened into an approved
38 child restraint device.

1 (5) A person violating this section shall be issued a notice of
2 traffic infraction under chapter 46.63 RCW. A finding that a person
3 has committed a traffic infraction under this section shall be
4 contained in the driver's abstract but shall not be available to
5 insurance companies or employers.

6 (6) Failure to comply with the requirements of this section does
7 not constitute negligence, nor may failure to wear a safety belt
8 assembly be admissible as evidence of negligence in any civil action.

9 (7) This section does not apply to an operator or passenger who
10 possesses written verification from a licensed physician that the
11 operator or passenger is unable to wear a safety belt for physical or
12 medical reasons.

13 (8) The state patrol may adopt rules exempting operators or
14 occupants of farm vehicles, construction equipment, and vehicles that
15 are required to make frequent stops from the requirement of wearing
16 safety belts.

17 **Sec. 9.** RCW 46.61.710 and 2003 c 353 s 10 are each amended to read
18 as follows:

19 (1) No person shall operate a moped upon the highways of this state
20 unless the moped has been assigned a moped registration number and
21 displays a moped permit in accordance with the provisions of RCW
22 46.16.630.

23 (2) Notwithstanding any other provision of law, a moped may not be
24 operated on a bicycle path or trail, bikeway, equestrian trail, or
25 hiking or recreational trail.

26 (3) Operation of a moped, electric personal assistive mobility
27 device, motorized foot scooter, or an electric-assisted bicycle on a
28 fully controlled limited access highway is unlawful. Operation of a
29 moped, motorized foot scooter, or an electric-assisted bicycle on a
30 sidewalk is unlawful.

31 (4) Removal of any muffling device or pollution control device from
32 a moped is unlawful.

33 (5) Subsections (1), (2), and (4) of this section do not apply to
34 electric-assisted bicycles. Electric-assisted bicycles and motorized
35 foot scooters may have access to highways, other than limited access
36 highways, of the state to the same extent as bicycles. Subject to
37 subsection (6) of this section, electric-assisted bicycles and

1 motorized foot scooters may be operated on a multipurpose trail or
2 bicycle lane, but local jurisdictions may restrict or otherwise limit
3 the access of electric-assisted bicycles and motorized foot scooters,
4 and state agencies may regulate the use of motorized foot scooters on
5 facilities and properties under their jurisdiction and control.

6 (6) Subsections (1) and (4) of this section do not apply to
7 motorized foot scooters. Subsection (2) of this section applies to
8 motorized foot scooters when the bicycle path, trail, bikeway,
9 equestrian trail, or hiking or recreational trail was built or is
10 maintained with federal highway transportation funds. Additionally,
11 any new trail or bicycle path or readily identifiable existing trail or
12 bicycle path not built or maintained with federal highway
13 transportation funds may be used by persons operating motorized foot
14 scooters only when appropriately signed.

15 (7) A person operating an electric personal assistive mobility
16 device (EPAMD) shall obey all speed limits and shall yield the right-
17 of-way to pedestrians and human-powered devices at all times. An
18 operator must also give an audible signal before overtaking and passing
19 a pedestrian. Except for the limitations of this subsection, persons
20 operating an EPAMD have all the rights and duties of a pedestrian.

21 (8) The use of an EPAMD may be regulated in the following
22 circumstances:

23 (a) A municipality and the department of transportation may
24 prohibit the operation of an EPAMD on public highways within their
25 respective jurisdictions where the speed limit is greater than twenty-
26 five miles per hour;

27 (b) A municipality may restrict the speed of an EPAMD in locations
28 with congested pedestrian or nonmotorized traffic and where there is
29 significant speed differential between pedestrians or nonmotorized
30 traffic and EPAMD operators. The areas in this subsection must be
31 designated by the city engineer or designee of the municipality.
32 Municipalities shall not restrict the speed of an EPAMD in the entire
33 community or in areas in which there is infrequent pedestrian traffic;

34 (c) A state agency or local government may regulate the operation
35 of an EPAMD within the boundaries of any area used for recreation, open
36 space, habitat, trails, or conservation purposes.

1 NEW SECTION. **Sec. 10.** A new section is added to chapter 47.36 RCW
2 to read as follows:

3 (1) For the purposes of this section:

4 (a) "Arterial" means a public road or highway that is designated or
5 qualifies as a principal or minor arterial under a state or local law,
6 ordinance, regulation, or plan.

7 (b) "Bicycle" means a human-powered vehicle with metallic wheels at
8 least sixteen inches in diameter or with metallic braking strips and
9 metallic components, not necessarily including the frame or fork, which
10 may be lawfully ridden on a public road or highway.

11 (c) "Bicycle route" means a route (i) that is designated as a route
12 for bicycle use in a state or local law, ordinance, rule, or plan, or
13 (ii) that provides bicycle access to urban areas that are not
14 reasonably and conveniently accessible through other bicycle routes.
15 The level of existing or projected use by bicyclists is a factor to
16 consider in determining whether a bicycle route provides access that is
17 not reasonably and conveniently available from other bicycle routes.
18 An intersection that provides necessary linkages in a bicycle route or
19 between routes is considered a part of the bicycle route or routes.

20 (d) "Design complete" means that all major design work for a new
21 vehicle-activated traffic control signal has been completed and that
22 the funding necessary for complete construction of the vehicle-
23 activated traffic control signal has been firmly secured.

24 (e) "Existing vehicle-activated traffic control signal" means a
25 vehicle-activated traffic control signal that is in use or design
26 complete on or before the effective date of this section.

27 (f)(i) "Motorcycle" means a motor vehicle designed to travel on not
28 more than three wheels in contact with the ground, on which the driver:

29 (A) Rides on a seat or saddle and the motor vehicle is designed to
30 be steered with a handle bar; or

31 (B) Rides on a seat in a partially or completely enclosed seating
32 area that is equipped with safety belts and the motor vehicle is
33 designed to be steered with a steering wheel.

34 (ii) "Motorcycle" excludes a farm tractor, a power wheelchair, an
35 electric personal assistive mobility device, a motorized foot scooter,
36 an electric-assisted bicycle, and a moped.

37 (g) "Restricted right turn lane" means a right turn only lane where

1 a right turn is not allowed after stopping but only upon a green
2 signal.

3 (h) "Routinely and reliably detect motorcycles and bicycles" means
4 that the detection equipment at a vehicle-activated traffic control
5 signal is capable of detecting and will reliably detect a motorcycle or
6 bicycle (i) when the motorcycle or bicycle is present immediately
7 before a stop line or crosswalk in the center of a lane at an
8 intersection or road entrance to such an intersection, or (ii) when the
9 motorcycle or bicycle is present at marked detection areas.

10 (i) "Vehicle-activated traffic control signal" means a traffic
11 control signal on a public road or highway that detects the presence of
12 a vehicle as a means to change a signal phase.

13 (2) During routine maintenance or monitoring activities, but
14 subject to the availability of funds:

15 (a) All existing vehicle-activated traffic control signals that do
16 not currently routinely and reliably detect motorcycles and bicycles
17 must be adjusted to do so to the extent that the existing equipment is
18 capable consistent with safe traffic control. Priority must be given
19 to existing vehicle-activated traffic control signals for which
20 complaints relating to motorcycle or bicycle detection have been
21 received and existing vehicle-activated traffic control signals that
22 are otherwise identified as a detection problem for motorcyclists or
23 bicyclists, or both. Jurisdictions operating existing vehicle-
24 activated traffic control signals shall establish and publicize a
25 procedure for filing these complaints in writing or by e-mail, and
26 maintain a record of these complaints and responses; and

27 (b) Where motorcycle and bicycle detection is limited to certain
28 areas other than immediately before the stop line or crosswalk in the
29 center of a lane at an existing vehicle-activated traffic control
30 signal, those detection areas must be clearly marked on the pavement at
31 left turn lanes, through lanes, and limited right turn lanes. These
32 detection areas must also be marked to allow a bicyclist to leave a
33 bicycle lane to enter a detection area, if necessary, to cross an
34 intersection. Pavement markings must be consistent with the standards
35 described in the state of Washington's "Manual on Uniform Traffic
36 Control Devices for Streets and Highways" obtainable from the
37 department of transportation.

1 (3)(a) If at least a substantial portion of detection equipment at
2 an existing vehicle-activated traffic control signal on an arterial or
3 bicycle route is scheduled to be replaced or upgraded, the replaced or
4 upgraded detection equipment must routinely and reliably detect
5 motorcycles and bicycles. For purposes of this subsection (3)(a),
6 "substantial portion" means that the proposed replacement or upgrade
7 will cost more than twenty percent of the cost of full replacement or
8 upgraded detection equipment that would routinely and reliably detect
9 motorcycles and bicycles.

10 (b) If at least a substantial portion of detection equipment at an
11 existing vehicle-activated traffic control signal on a public road or
12 highway that is not an arterial or bicycle route is scheduled to be
13 replaced or upgraded, the replaced or upgraded detection equipment must
14 routinely and reliably detect motorcycles and bicycles. For purposes
15 of this subsection (3)(b), "substantial portion" means that the
16 proposed replacement or upgrade will cost more than fifty percent of
17 the cost of full replacement or upgraded detection equipment that would
18 routinely and reliably detect motorcycles and bicycles.

19 (4) All vehicle-activated traffic control signals that are design
20 complete and put in operation after the effective date of this section
21 must be designed and operated, when in use, to routinely and reliably
22 detect motorcycles and bicycles, including the detection of bicycles in
23 bicycle lanes that cross an intersection.

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