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**SUBSTITUTE SENATE BILL 5800**

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**State of Washington                      62nd Legislature                      2011 Regular Session**

**By** Senate Transportation (originally sponsored by Senators King, Haugen, and Shin)

READ FIRST TIME 02/25/11.

1            AN ACT Relating to authorizing the use of modified off-road  
2 motorcycles on public roads; amending RCW 46.09.470; adding a new  
3 section to chapter 46.04 RCW; adding a new section to chapter 46.61  
4 RCW; adding a new section to chapter 46.16A RCW; and providing an  
5 effective date.

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

7            NEW SECTION.    **Sec. 1.** A new section is added to chapter 46.04 RCW  
8 to read as follows:

9            "Off-road motorcycle" means a motorcycle as defined in RCW  
10 46.04.330 that is labeled by the manufacturer's statement or  
11 certificate of origin as intended for "off-road use only" or a similar  
12 message stamped into the frame of the motorcycle, contained in the  
13 owner's manual, or affixed to any part of the motorcycle.

14           NEW SECTION.    **Sec. 2.** A new section is added to chapter 46.61 RCW  
15 to read as follows:

16           (1) A person may operate an off-road motorcycle upon a public road,  
17 street, or highway of this state if the person:

1 (a) Files a motorcycle highway use declaration, as provided under  
2 section 3 of this act, with the department certifying conformance with  
3 all applicable federal motor vehicle safety standards and state  
4 standards;

5 (b) Obtains and has in full force and effect a current and proper  
6 ORV registration or temporary ORV use permit under chapter 46.09 RCW;  
7 and

8 (c) Obtains a valid driver's license and motorcycle endorsement  
9 issued to Washington residents in compliance with chapter 46.20 RCW for  
10 a motorcycle.

11 (2) Any off-road motorcycle operated under this section must have:

12 (a) A head lamp meeting the requirements of RCW 46.37.523 and  
13 46.37.524, and used in accordance with RCW 46.37.522;

14 (b) A tail lamp meeting the requirements of RCW 46.37.525;

15 (c) A stop lamp meeting the requirements of RCW 46.37.525;

16 (d) Reflectors meeting the requirements of RCW 46.37.525;

17 (e) Brakes meeting the requirements of RCW 46.37.527, 46.37.528,  
18 and 46.37.529;

19 (f) A mirror on both the left and right handlebar meeting the  
20 requirements of RCW 46.37.530;

21 (g) A windshield meeting the requirements of RCW 46.37.530, unless  
22 the driver wears glasses, goggles, or a face shield while operating the  
23 motorcycle, of a type conforming to rules adopted by the state patrol;

24 (h) A horn or warning device meeting the requirements of RCW  
25 46.37.380;

26 (i) Tires meeting the requirements of RCW 46.37.420 and 46.37.425;

27 (j) Turn signals meeting the requirements of RCW 46.37.200; and

28 (k) Fenders adequate for minimizing the spray or splash of water,  
29 rocks, or mud from the roadway. Fenders must be as wide as the tires  
30 behind which they are mounted and extend downward at least half way to  
31 the center of the axle.

32 (3) Every person operating an off-road motorcycle under this  
33 section is granted all rights and is subject to all duties applicable  
34 to the driver of a motorcycle under RCW 46.37.530 and chapter 46.61  
35 RCW.

36 (4) Any person who violates this section commits a traffic  
37 infraction.

1 (5) Accidents must be recorded and tracked in compliance with  
2 chapter 46.52 RCW. An accident report must indicate and be tracked  
3 separately when any of the vehicles involved are an off-road  
4 motorcycle.

5 NEW SECTION. **Sec. 3.** A new section is added to chapter 46.16A RCW  
6 to read as follows:

7 (1) The department shall establish a declaration subject to the  
8 requirements of RCW 9A.72.085, which must be submitted by an off-road  
9 motorcycle owner when applying for on-road registration of the off-road  
10 motorcycle. In order to be registered for on-road use, an off-road  
11 motorcycle must travel on two wheels with a seat designed to be  
12 straddled by the operator and with handlebar-type steering control.

13 (2) Registration for on-road use of an off-road motorcycle is  
14 prohibited for dune buggies, snowmobiles, trimobiles, mopeds, pocket  
15 bikes, motor vehicles registered by the department, side-by-sides,  
16 utility vehicles, grey-market vehicles, off-road three-wheeled  
17 vehicles, and, as determined by the department, any other vehicles that  
18 were not originally certified by the manufacturer for use on public  
19 roads.

20 (3) The declaration must include the following:

21 (a) Documentation of a safety inspection to be completed by a  
22 licensed motorcycle dealer or repair shop in the state of Washington  
23 that must outline the vehicle information and certify that all off-road  
24 to on-road motorcycle equipment as required under section 2 of this act  
25 meets the requirements outlined in state and federal law;

26 (b) Documentation that the licensed motorcycle dealer or repair  
27 shop did not charge more than one hundred dollars per safety inspection  
28 and that the entire safety inspection fee is paid directly and only to  
29 the licensed motorcycle dealer or repair shop;

30 (c) A statement that the licensed motorcycle dealer or repair shop  
31 is entitled to the full amount charged for the motorcycle safety  
32 inspection;

33 (d) A vehicle identification number verification that must be  
34 completed by a licensed motorcycle dealer or repair shop in the state  
35 of Washington; and

36 (e) A release signed by the owner of the off-road motorcycle and  
37 verified by the department, county auditor or other agent, or subagent

1 appointed by the director that releases the state from any liability  
2 and outlines that the owner understands that the original off-road  
3 motorcycle was not manufactured for on-road use and that it has been  
4 modified for use on public roads.

5 (4) The department must track off-road motorcycles in a separate  
6 registration category for reporting purposes.

7 **Sec. 4.** RCW 46.09.470 and 2006 c 212 s 3 are each amended to read  
8 as follows:

9 (1) Except as provided in subsection (4) of this section, it is a  
10 traffic infraction for any person to operate any nonhighway vehicle:

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

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

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

19 (d) Without a spark arrester approved by the department of natural  
20 resources;

21 (e) Without an adequate, and operating, muffling device which  
22 effectively limits vehicle noise to no more than eighty-six decibels on  
23 the "A" scale at fifty feet as measured by the Society of Automotive  
24 Engineers (SAE) test procedure J 331a, except that a maximum noise  
25 level of one hundred and five decibels on the "A" scale at a distance  
26 of twenty inches from the exhaust outlet shall be an acceptable  
27 substitute in lieu of the Society of Automotive Engineers test  
28 procedure J 331a when measured:

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

31 (ii) With the vehicle stationary and the engine running at a steady  
32 speed equal to one-half of the manufacturer's maximum allowable ("red  
33 line") engine speed or where the manufacturer's maximum allowable  
34 engine speed is not known the test speed in revolutions per minute  
35 calculated as sixty percent of the speed at which maximum horsepower is  
36 developed; and

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

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

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

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

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

17 (j) On a private nonhighway road in violation of RCW  
18 (~~(46.09.115(3))~~) 46.09.450(3).

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

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

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

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

34 (4) It is not a traffic infraction to operate an off-road vehicle  
35 on a street, road, or highway as authorized under RCW (~~(46.09.180)~~)  
36 46.09.360 or section 2 of this act.

1        NEW SECTION.   **Sec. 5.**   This act takes effect January 1, 2012.

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