

A careful reading of this bill reveals that section 3 as amended could create problems beyond the intent of the sponsor. The amendment was submitted as a floor amendment and thus did not have the benefit of committee deliberation. Although the purpose of the change was to allow those under 21 years of age to assist in clean-up duties in their parents' taverns, in itself not particularly objectionable, the amended section could be interpreted as allowing teenage "coke" parties or other social events in a contrived atmosphere.

Another problem exists involving the ability of the Washington State Liquor Control Board to enforce the statute. It is a valid argument that a tavern operator might be able to take advantage of the law if a minor was found on the premises by quickly suspending sales and claiming no violation.

For these reasons, section 3 of Substitute Senate Bill No. 3036 is vetoed and the remainder of the bill is approved."

CHAPTER 220

[Engrossed Senate Bill No. 2472]

NONHIGHWAY VEHICLES—OFF-ROAD VEHICLES

AN ACT Relating to motor vehicles; amending section 7, chapter 47, Laws of 1971 ex. sess. as amended by section 3, chapter 153, Laws of 1972 ex. sess. and RCW 46.09.020; amending section 8, chapter 47, Laws of 1971 ex. sess. as amended by section 4, chapter 153, Laws of 1972 ex. sess. and RCW 46.09.030; amending section 9, chapter 47, Laws of 1971 ex. sess. as amended by section 5, chapter 153, Laws of 1972 ex. sess. and RCW 46.09.040; amending section 10, chapter 47, Laws of 1971 ex. sess. as amended by section 6, chapter 153, Laws of 1972 ex. sess. and RCW 46.09.050; amending section 11, chapter 47, Laws of 1971 ex. sess. as amended by section 7, chapter 153, Laws of 1972 ex. sess. and RCW 46.09.060; amending section 12, chapter 47, Laws of 1971 ex. sess. as amended by section 8, chapter 153, Laws of 1972 ex. sess. and RCW 46.09.070; amending section 13, chapter 47, Laws of 1971 ex. sess. as amended by section 9, chapter 153, Laws of 1972 ex. sess. and RCW 46.09.080; amending section 14, chapter 47, Laws of 1971 ex. sess. as amended by section 10, chapter 153, Laws of 1972 ex. sess. and RCW 46.09.090; amending section 16, chapter 47, Laws of 1971 ex. sess. as amended by section 11, chapter 153, Laws of 1972 ex. sess. and RCW 46.09.110; amending section 17, chapter 47, Laws of 1971 ex. sess. as amended by section 12, chapter 153, Laws of 1972 ex. sess. and RCW 46.09.120; amending section 18, chapter 47, Laws of 1971 ex. sess. and RCW 46.09.130; amending section 19, chapter 47, Laws of 1971 ex. sess. and RCW 46.09.140; amending section 20, chapter 47, Laws of 1971 ex. sess. as last amended by section 1, chapter 144, Laws of 1974 ex. sess. and RCW 46.09.150; amending section 22, chapter 47, Laws of 1971 ex. sess. as last amended by section 1, chapter 34, Laws of 1975 1st ex. sess. and RCW 46.09.170; amending section 23, chapter 47, Laws of 1971 ex. sess. and RCW 46.09.180; amending section 24, chapter 47, Laws of 1971 ex. sess. as amended by section 16, chapter 153, Laws of 1972 ex. sess. and RCW 46.09.190; amending section 8, chapter 76, Laws of 1970 ex. sess. as last amended by section 1, chapter 153, Laws of 1972 ex. sess. and RCW 67.32.080; adding new sections to chapter 47, Laws of 1971 ex. sess. and to chapter 46.09 RCW; repealing section 2, chapter 34, Laws of 1975 1st ex. sess. and RCW 46.09.175; repealing section 28, chapter 47, Laws of 1971 ex. sess. and RCW 46.09.210; repealing section 18, chapter 153, Laws of 1972 ex. sess. and RCW 46.09.220; prescribing penalties; and making an appropriation.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 7, chapter 47, Laws of 1971 ex. sess. as amended by section 3, chapter 153, Laws of 1972 ex. sess. and RCW 46.09.020 are each amended to read as follows:

As used in this chapter the following words and phrases shall have the designated meanings unless a different meaning is expressly provided or the context otherwise clearly indicates:

"Person" shall mean any individual, firm, partnership, association or corporation.

((~~All-terrain~~)) "Nonhighway vehicle" shall mean any self-propelled vehicle when used for ((~~cross-country~~)) recreation travel on trails and nonhighway roads or for recreation cross-country travel on any one of the following or a combination

thereof: Land, water, snow, ice, marsh, swampland, and other natural terrain. Such vehicles shall include but are not limited to, two or four-wheel drive vehicles, motorcycles, dune buggies, amphibious vehicles, ground effects or air cushion vehicles, and any other means of land transportation deriving motive power from any source other than muscle or wind~~((; except any vehicle designed primarily for travel on, over, or in the water, farm vehicles, logging and private forestry vehicles, snowmobiles or any military or law enforcement vehicles.~~

"ATV use permit" means the permit system established for an all-terrain vehicle, in this state, pursuant to this chapter.

"Trail" for the purpose of this chapter, shall mean a corridor designated and maintained for recreational travel, by whatever mode of transportation (foot, animal, or vehicular) authorized by the managing authority of the property that the trail traverses).

Nonhighway vehicle does not include:

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

(2) Snowmobiles or any military vehicles; or

(3) Any vehicle eligible for a motor vehicle fuel tax exemption or rebate under chapter 82.36 RCW while an exemption or rebate is claimed. This exemption includes but is not limited to farm, construction, and logging vehicles.

"Off-road vehicle" or "ORV" means any nonhighway vehicle when used for cross-country travel on trails or on any one of the following or a combination thereof: Land, water, snow, ice, marsh, swampland and other natural terrain.

"ORV use permit" shall mean the permit system established for off-road vehicles in this state under this chapter.

"ORV trail" shall mean a corridor designated and maintained for recreational travel by off-road vehicles which is not normally suitable for travel by conventional two-wheel drive vehicles and where it is posted or designated by the managing authority of the property that the trail traverses as permitting ORV travel.

"ORV use area" means the entire area of a parcel of land except for camping and approved buffer areas where it is posted or designated for ORV use in accordance with rules adopted by the managing authority.

"Owner" shall mean the person other than the lienholder, having an interest in or title to ((an all-terrain)) a nonhighway vehicle, and entitled to the use or possession thereof.

"Operator" means each person who operates, or is in physical control of, any ((all-terrain)) nonhighway vehicle.

"ORV moneys" shall mean those moneys derived from motor vehicle excise taxes on fuel used and purchased for providing the motive power for nonhighway vehicles as described in section 13, ORV use permit fees, and ORV dealer permit fees, provided these moneys are:

(1) Credited to the outdoor recreation account; or

(2) Credited to the ORV account for user education or for acquisition, planning, development, maintenance, and management of designated off-road vehicle trails and areas.

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

"Department" shall mean the department of motor vehicles.

"Director" shall mean the director of the department of motor vehicles.

"Committee" shall mean the interagency committee for outdoor recreation.

"Hunt" shall mean any effort to kill, injure, capture, or purposely disturb a wild animal or wild bird.

"Nonhighway road" shall mean any road other than a highway generally capable of travel by a conventional two-wheel drive passenger automobile during most of the year and in use by such vehicles and which are private roads or controlled and maintained by the department of natural resources, the state parks and recreation commission and the state game department: PROVIDED, That such roads are not built or maintained by appropriations from the motor vehicle fund.

"Highway" for the purpose of this chapter only shall mean the entire width between the boundary lines of every way publicly maintained by the state department of highways or any county or city when any part thereof is generally open to the use of the public for purposes of vehicular travel as a matter of right.

"Organized competitive event" shall mean any competition, advertised in advance through written notice to organized clubs or published in local newspapers, sponsored by recognized clubs, and conducted at a predetermined time and place.

Sec. 2. Section 8, chapter 47, Laws of 1971 ex. sess. as amended by section 4, chapter 153, Laws of 1972 ex. sess. and RCW 46.09.030 are each amended to read as follows:

The department shall provide for the issuance of use permits for ~~((all-terrain))~~ off-road vehicles and may appoint agents for collecting fees and issuing permits. The provisions of RCW 46.01.130 and 46.01.140 shall apply to the issuance of use permits for ~~((all-terrain))~~ off-road vehicles as they do to the issuance of vehicle licenses, the appointment of agents and the collection of application fees: PROVIDED, That filing fees for ~~((ATV))~~ ORV use permits collected by the director shall be certified to the state treasurer and deposited ~~((to the credit of the outdoor recreation account))~~ as specified in section 9 of this 1977 amendatory act.

Sec. 3. Section 9, chapter 47, Laws of 1971 ex. sess. as amended by section 5, chapter 153, Laws of 1972 ex. sess. and RCW 46.09.040 are each amended to read as follows:

Except as provided in this chapter, no person shall operate any ~~((all-terrain))~~ off-road vehicle within this state after ~~((February 27, 1972))~~ January 1, 1978, unless ~~((such all-terrain))~~ the off-road vehicle has been assigned an ~~((ATV))~~ ORV use permit and displays ~~((an ATV))~~ a current ORV tag in accordance with the provisions of this chapter: PROVIDED, That ~~((the 1972))~~ registration ~~((licensing))~~ and display ~~((thereof))~~ of an unexpired ATV use permit shall be deemed to have complied with this section ~~((for the 1972 registration period)).~~

Sec. 4. Section 10, chapter 47, Laws of 1971 ex. sess. as amended by section 6, chapter 153, Laws of 1972 ex. sess. and RCW 46.09.050 are each amended to read as follows:

~~((ATV))~~ ORV use permits and ~~((ATV))~~ ORV tags shall be required under the provisions of this chapter except for the following:

(1) ~~((All-terrain))~~ Off-road vehicles owned and operated by the United States, another state, or a political subdivision thereof.

(2) ~~((All-terrain))~~ Off-road vehicles owned and operated by this state, or by any municipality or political subdivision thereof.

(3) An ~~((all-terrain))~~ off-road vehicle operating in an organized competitive event on privately owned or leased land: PROVIDED, That if such leased land is owned by the state of Washington this exemption shall not apply unless the state agency exercising jurisdiction over the land in question specifically authorizes said competitive event: PROVIDED FURTHER, That such exemption shall be strictly construed.

(4) ~~((All-terrain))~~ Off-road vehicles operated on lands owned or leased by the ~~((ATV))~~ ORV owner or operator or on lands ~~((on))~~ which the operator has permission to operate without an ~~((ATV))~~ ORV use permit.

~~((All-terrain vehicles which are validly licensed to operate over a highway of this state or if owned by nonresidents of this state, all-terrain vehicles which are validly licensed for operation over public highways in the state of the owner's residence:~~

~~((6) Those two-wheeled vehicles with engines of fifty cubic centimeters or less displacement or those two-wheeled vehicles with engines which develop five or less horsepower, or those two-wheeled vehicles with a wheelbase of forty-two inches or less, or those two-wheeled vehicles which are equipped with wheels of fourteen inches or less rim diameter:~~

~~((7)) An off-road vehicle owned by a resident of another state if that off-road vehicle is registered in accordance with the laws of the other state. This exemption shall apply only to the extent that a similar exemption or privilege is granted under the laws of that state, except that any off-road vehicle which is validly registered in another state and which is physically located in this state for a period of more than fifteen consecutive days shall be required to obtain a Washington state ORV use permit.~~

~~((6) ((All-terrain)) Off-road vehicles while being used for search and rescue purposes under the authority or direction of an appropriate search and rescue or law enforcement agency.~~

~~((((8))) (7) Vehicles used primarily for construction or inspection purposes during the course of a commercial operation.~~

~~((8) Vehicles which are licensed pursuant to RCW 46.16 or in the case of non-residents, vehicles which are validly licensed for operation over public highways in the jurisdiction of the owner's residence.~~

Sec. 5. Section 11, chapter 47, Laws of 1971 ex. sess. as amended by section 7, chapter 153, Laws of 1972 ex. sess. and RCW 46.09.060 are each amended to read as follows:

The ~~((ATV))~~ ORV use permit period established by the department shall be concurrent with the registration period established by the department for motor vehicles pursuant to chapter 46.16 RCW.

Sec. 6. Section 12, chapter 47, Laws of 1971 ex. sess. as amended by section 8, chapter 153, Laws of 1972 ex. sess. and RCW 46.09.070 are each amended to read as follows:

Application for an ~~((ATV))~~ ORV use permit shall be made to the department or its authorized agent in such manner and upon such forms as the department shall prescribe, ~~((and))~~ shall state the name and address of each owner of the ~~((all=~~

~~terrain))~~ off-road vehicle, ~~((and))~~ shall be signed by at least one such owner, and shall be accompanied by a use permit fee of five dollars.

Upon receipt of the application and the application fee, ~~((such all-terrain))~~ the off-road vehicle shall be assigned a use permit number tag or decal, which shall be affixed to the ~~((all-terrain))~~ off-road vehicle in a manner prescribed by the department. The department may utilize applications, registration and license forms, and registration numbering provided for use prior to ~~((February 27, 1972 for the balance of 1972 and such shall constitute use permits, tags or decals for 1972))~~ the effective date of this 1977 amendatory act.

The ~~((ATV))~~ ORV use permit provided in this section shall be valid for a period of one year. Use permits shall be renewable each year in such manner as the department may prescribe~~(;)~~ for an additional period of one year~~(;)~~ upon payment of a renewal fee of five dollars.

Any person acquiring an ~~((all-terrain))~~ off-road vehicle for which a use permit has been issued under the provisions of this chapter who desires to continue to use the permit must, within fifteen days of the acquisition or purchase of ~~((such all-terrain))~~ the off-road vehicle, make application to the department or its authorized agent for transfer of ~~((such ATV))~~ the ORV use permit, and such application shall be accompanied by a transfer fee of one dollar.

Except as provided in section 4 of this 1977 amendatory act, any out-of-state owner of an ~~((all-terrain))~~ off-road vehicle shall, when operating in this state, comply with the provisions of this chapter and if an ~~((ATV))~~ ORV use permit is required under this chapter, ~~((he))~~ the owner shall obtain a nonresident ~~((ATV))~~ ORV use permit number and tag, valid for not more than sixty days or an annual permit and tag. Application for such a permit shall state name and address of each owner of the ~~((all-terrain))~~ off-road vehicle ~~((and)),~~ shall be signed by at least one such owner, and shall be accompanied by a fee of two dollars. The permit shall be carried on the vehicle at all times during its operation in this state.

Sec. 7. Section 13, chapter 47, Laws of 1971 ex. sess. as amended by section 9, chapter 153, Laws of 1972 ex. sess. and RCW 46.09.080 are each amended to read as follows:

(1) Each dealer of ~~((all-terrain))~~ off-road vehicles in this state who does not have a current "dealer's plate" for vehicle use pursuant to chapter 46.70 RCW, shall obtain a dealer ~~((ATV))~~ ORV permit from the department in such manner and upon such forms as the department shall prescribe. Upon receipt of a dealer's application for a dealer ~~((ATV))~~ ORV permit and the fee provided for in subsection (2) of this section, such dealer shall be registered and an ~~((ATV))~~ ORV dealer permit number assigned.

(2) The ~~((ATV))~~ ORV fee for dealers shall be twenty-five dollars per year, which shall be deposited in the outdoor recreation account, and such fee shall cover all of the ~~((all-terrain))~~ off-road vehicles owned by a dealer and not rented: PROVIDED, That ~~((all-terrain))~~ off-road vehicles rented on a regular, commercial basis by a dealer shall have separate use permits ~~((under the provisions of this 1972 amendatory act)).~~

(3) Upon the issuance of an ~~((ATV))~~ ORV dealer permit each dealer shall purchase, at a cost to be determined by the department, ~~((ATV))~~ ORV dealer number plates of a size and color to be determined by the department, which shall

contain the dealer ((~~ATV~~) ORV) permit number assigned to the dealer. Each ((~~all-terrain~~) off-road) vehicle operated by a dealer for the purposes of testing or demonstration shall display such number plates assigned pursuant to the dealer permit provisions ((~~as provided for~~)) in chapter 46.70 RCW or this section, in a clearly visible manner.

(4) No person other than a dealer or a representative thereof shall display number plates as prescribed in subsection (3) of this section, and no dealer or representative thereof shall use such number plates for any purpose other than the purpose prescribed in subsection (3) of this section.

(5) ((~~ATV~~) ORV) dealer permit numbers shall be nontransferable.

(6) On and after January 1, ((~~1973~~) 1978), it shall be unlawful for any dealer to sell any ((~~all-terrain~~) off-road) vehicle at wholesale or retail, or to test or demonstrate any ((~~all-terrain~~) off-road) vehicle within the state, unless he has a motor vehicle dealers' license pursuant to chapter 46.70 RCW or an ((~~ATV~~) ORV) dealer permit number in accordance with the provisions of this section.

Sec. 8. Section 14, chapter 47, Laws of 1971 ex. sess. as amended by section 10, chapter 153, Laws of 1972 ex. sess. and RCW 46.09.090 are each amended to read as follows:

All ((~~ATV~~) ORV) use permit tags and ((~~ATV~~) ORV) dealer tags shall be displayed in a manner prescribed by the department on ((~~all-terrain~~) off-road) vehicles when required by this ((~~1972 amendatory act~~)) chapter except as provided in ((~~RCW 46.09.050~~)) section 4 of this 1977 amendatory act.

Sec. 9. Section 16, chapter 47, Laws of 1971 ex. sess. as amended by section 11, chapter 153, Laws of 1972 ex. sess. and RCW 46.09.110 are each amended to read as follows:

The moneys collected by the department as ((~~ATV~~) ORV) use permit fees shall be distributed from time to time but at least once a year in the following manner:

(1) The department shall retain enough money to cover expenses incurred in the administration of this chapter: PROVIDED, That such retention shall never exceed eighteen percent of fees collected.

(2) ((~~The remaining funds shall be deposited in the outdoor recreation account of the general fund to be distributed by the interagency committee to departments of state government, to counties, and to municipalities on a basis determined by the amount of present or proposed ATV trails or areas on which they permit ATV use. The interagency committee shall prescribe methods, rules, and standards by which such departments, counties or municipalities may apply for and obtain moneys from the outdoor recreation account for defraying expenses and costs for planning, development, acquisition, and management of ATV recreational areas and trails and the committee shall also apply for applicable federal matching funds. PROVIDED, That agencies constructing all-terrain vehicle trails, campgrounds, and recreational areas and facilities, shall consider the possibility of contracting with the state parks and recreation commission, the department of natural resources or other agencies to employ the youth development and conservation corps or other youth crews to construct or assist in construction of such all-terrain vehicle trails, campgrounds and recreational areas and facilities.~~))

The department of natural resources may use up to five percent of the use permit fees for administration cost and for implementing this chapter.)) Twenty percent of the moneys shall be placed in the ORV account, which is hereby established, in the general fund and shall be administered by the department of natural resources as ORV moneys. The department of natural resources shall use these moneys to develop a state-wide program of ORV user education and information. Any portion of these moneys not used to develop an ORV user education and information program shall be deposited in the outdoor recreation account and shall be distributed by the interagency committee for outdoor recreation under section 17 of this 1977 amendatory act.

(3) The remaining moneys shall be credited to the outdoor recreation account of the general fund as ORV moneys and shall be distributed by the interagency committee for outdoor recreation as specified in section 17 of this amendatory act.

Sec. 10. Section 17, chapter 47, Laws of 1971 ex. sess. as amended by section 12, chapter 153, Laws of 1972 ex. sess. and RCW 46.09.120 are each amended to read as follows:

It shall be unlawful for any person to operate any (~~all-terrain~~) nonhighway vehicle:

- (1) While under the influence of intoxicating liquor or a controlled substance;
- (2) In such a manner as to endanger the property of another;
- (3) On lands not owned by the operator or owner of the (~~all-terrain~~) non-highway vehicle without a lighted headlight and taillight between the hours of dusk and dawn, or when otherwise required for the safety of others regardless of ownership;
- (4) On lands not owned by the operator or owner of the (~~all-terrain~~) non-highway vehicle without an adequate braking device or when otherwise required for the safety of others regardless of ownership;
- (5) Without a spark arrester approved by the department of natural resources;
- (6) Without an adequate, and operating, muffling device which (~~shall~~) effectively (~~blend the exhaust and motor noise in such a manner so as to preclude excessive or unusual noise. All-terrain vehicles manufactured after January 4, 1973, shall effectively maintain such noise at a level of eighty-two decibels or below on the "A" scale at one hundred feet under testing procedures as established by the Washington state patrol~~) limits vehicle noise to no more than eighty-six decibels on the "A" scale at fifty feet as measured by the Society of Automotive Engineers (SAE) test procedure J 331a, except that a maximum noise level of one hundred and five decibels on the "A" scale at a distance of twenty inches from the exhaust outlet shall be an acceptable substitute in lieu of the Society of Automotive Engineers test procedure J 331a when measured:
 - (a) At a forty-five degree angle at a distance of twenty inches from the exhaust outlet;
 - (b) With the vehicle stationary and the engine running at a steady speed equal to one-half of the manufacturer's maximum allowable ("red line") engine speed or where the manufacturer's maximum allowable engine speed is not known the test speed in revolutions per minute calculated as sixty percent of the speed at which maximum horsepower is developed; and

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

(7) On lands not owned by the operator or owner of the ~~((all-terrain))~~ non-highway vehicle upon the shoulder or inside bank or slope of any nonhighway road or highway, or upon the median of any divided highway;

(8) On lands not owned by the operator or owner of the ~~((all-terrain))~~ non-highway vehicle in any area or in such a manner so as to unreasonably expose the underlying soil, or to create an erosion condition, or to injure, damage, or destroy trees, growing crops, or other vegetation;

(9) On lands not owned by the operator or owner of the ~~((all-terrain))~~ non-highway vehicle or on any nonhighway road or trail which is restricted to pedestrian or animal travel; and

(10) On any public lands in violation of rules and regulations of the agency administering such lands.

Sec. 11. Section 18, chapter 47, Laws of 1971 ex. sess. and RCW 46.09.130 are each amended to read as follows:

No person shall operate ~~((an all-terrain))~~ a nonhighway vehicle in such a way as to endanger human life or to run down or harass deer, elk, or any other wildlife, or any domestic animal, nor ~~((shall he))~~ carry, transport, or convey any loaded weapon in or upon, nor hunt from, any ~~((all-terrain))~~ nonhighway vehicle.

Violation of this section shall constitute a gross misdemeanor.

Sec. 12. Section 19, chapter 47, Laws of 1971 ex. sess. and RCW 46.09.140 are each amended to read as follows:

The operator of any ~~((all-terrain))~~ nonhighway vehicle involved in any accident resulting in injury to or death of any person, or property damage to another in the estimated amount of two hundred dollars or more, or a person acting for the operator shall submit such reports as are required under chapter 46.52 RCW, as now enacted or as hereafter amended, and the provisions of chapter 46.52 RCW shall be applicable to such reports when submitted.

Sec. 13. Section 20, chapter 47, Laws of 1971 ex. sess. as last amended by section 1, chapter 144, Laws of 1974 ex. sess. and RCW 46.09.150 are each amended to read as follows:

Motor vehicle fuel excise taxes paid on fuel used and purchased for providing the motive power for ~~((all-terrain))~~ nonhighway vehicles shall not be refundable in accordance with the provisions of RCW 82.36.280 as it now exists or is hereafter amended.

Sec. 14. Section 22, chapter 47, Laws of 1971 ex. sess. as last amended by section 1, chapter 34, Laws of 1975 1st ex. sess. and RCW 46.09.170 are each amended to read as follows:

(1) From time to time, but at least once each ~~((biennium))~~ year, the director of the department of motor vehicles shall request the state treasurer to refund from the motor vehicle fund one percent of the motor vehicle fuel tax revenues collected pursuant to chapter 82.36 RCW, less proper deductions for refunds and costs of collection as provided in RCW 46.68.090. The treasurer shall ~~((refund and))~~ place

~~((such amounts)) these funds in the ((outdoor recreation account of the)) general fund ((to be administered by the interagency committee for outdoor recreation, and such amounts shall be distributed to departments of state government, to counties, and to municipalities on a basis determined by the amount of present or proposed ATV trails or areas on which they permit ATV use. Such distribution shall be reviewed and may be revised by the committee at least once each biennium. These moneys shall be expended by each agency only for all-terrain vehicle trail and area related expenses)) as follows:~~

(a) Twenty-five percent shall be credited to the ORV account and administered by the department of natural resources solely for the acquisition, planning, development, maintenance, and management of nonhighway roads and recreation facilities;

(b) Three and one-half percent shall be credited to the ORV account and administered by the department of game solely for the acquisition, planning, development, maintenance, and management of nonhighway roads and recreation facilities;

(c) Twenty percent shall be credited to the ORV account and administered by the department of natural resources and shall be designated as ORV moneys to be used only for the acquisition, planning, development, maintenance, and management of designated off-road vehicle trails and areas; to construct campgrounds and trailheads which are necessary for the convenient use of designated ORV trails and areas; and to maintain those campgrounds and trailheads specifically constructed with ORV moneys: PROVIDED, HOWEVER, That the department of natural resources, two months prior to the acquisition and development of such trails, areas, campgrounds and trailheads for off road vehicles, shall conduct a public hearing at a suitable location in the nearest town of five hundred population or more, and the department shall publish a notice of such hearing on the same day of each week for two consecutive weeks in a legal newspaper of general circulation in the county or counties where the property which is the subject of the proposed facility is located. The department of natural resources shall further file such notice of hearing with the department of ecology at the main office in Olympia and shall comply with the provisions of the state environmental policy act, chapter 43.21C RCW and regulations promulgated thereunder; and

(d) Fifty-one and one-half percent shall be credited to the outdoor recreation account and designated as ORV moneys to be administered by the interagency committee for outdoor recreation and distributed in accordance with section 17 of this amendatory act.

(2) On a yearly basis no agency may expend more than thirteen percent of its share of the above amounts for general administration expenses incurred in carrying out the provisions of this chapter, and not more than fifty percent of its share of said amount for education and law enforcement programs related to nonhighway vehicles.

(3) ORV moneys shall be expended only for the acquisition, planning, development, maintenance, and management of off-road vehicle trails and areas; for education and law enforcement programs related to nonhighway vehicles; to construct campgrounds and trailheads which are necessary for the convenient use of designated ORV trails and areas; and to maintain those campgrounds and trailheads specifically constructed with ORV moneys.

Sec. 15. Section 23, chapter 47, Laws of 1971 ex. sess. and RCW 46.09.180 are each amended to read as follows:

Notwithstanding any of the provisions of this chapter, any city, county, or other political subdivision of this state, or any state agency, may regulate the operation of ~~((all-terrain))~~ nonhighway vehicles on public lands, waters, and other properties under its jurisdiction, and on streets or highways within its boundaries by adopting regulations or ordinances of its governing body, provided such regulations are not less stringent than the provisions of this chapter.

Sec. 16. Section 24, chapter 47, Laws of 1971 ex. sess. as amended by section 16, chapter 153, Laws of 1972 ex. sess. and RCW 46.09.190 are each amended to read as follows:

(1) Except as provided in RCW 46.09.130 as now or hereafter amended, any person violating the provisions of this chapter shall be guilty of a misdemeanor and subject to a fine of not less than twenty-five dollars.

(2) In addition to the penalties provided in subsection (1) of this section, the owner and/or the operator of any ~~((all-terrain))~~ nonhighway vehicle shall be liable for any damage to property including damage to trees, shrubs, growing crops injured as the result of travel by ~~((such all-terrain))~~ the nonhighway vehicle. The owner of such property may recover from the person responsible three times the amount of damage.

NEW SECTION. Sec. 17. There is added to chapter 47, Laws of 1971 ex. sess. and to chapter 46.09 RCW a new section to read as follows:

(1) The moneys deposited in the outdoor recreation account of the general fund derived from ORV use permit fees, ORV dealer permit fees, and motor vehicle excise taxes on fuel used and purchased for providing the motive power for nonhighway vehicles shall be administered by the interagency committee for outdoor recreation and shall be distributed at least once each year to state agencies, counties, and municipalities. The interagency committee for outdoor recreation may make intergovernmental agreements with federal agencies for the use of ORV moneys. The agreements shall contain the conditions for the use of these moneys.

The committee shall prescribe methods, rules, and standards by which agencies may apply for and obtain moneys and shall determine the amount of money distributed to each applicant: PROVIDED, That agencies constructing off-road vehicle trails, campgrounds, and recreational areas and facilities shall consider the possibility of contracting with the state parks and recreation commission, the department of natural resources, or other federal, state and local agencies to employ the youth development and conservation corps or other youth crews to construct or assist in construction of such off-road vehicle trails, campgrounds, and recreational areas and facilities.

(2) The interagency committee shall require that each applicant conduct a public hearing in the nearest town of five hundred population or more, and publish notice of such hearing on the same day of each week for two consecutive weeks in a newspaper of general circulation in the county or counties where the property which is subject of the proposed facility is located prior to the submission of its application. A written record and a magnetic tape recording of such hearings shall be included in the application to the committee.

(3) The interagency committee for outdoor recreation shall retain enough money from ORV moneys to cover expenses incurred in the administration of this chapter except that after June 30, 1979, the retention shall not exceed, on a yearly basis, three percent of the ORV moneys deposited in the outdoor recreation account.

NEW SECTION. Sec. 18. There is added to chapter 47, Laws of 1971 ex. sess. and to chapter 46.09 RCW a new section to read as follows:

Between June 30, 1977 and June 30, 1979 the interagency committee for outdoor recreation shall develop or cause to be developed a state-wide ORV plan which shall determine and reflect user densities and preferences and suitability and availability of designated ORV trails and areas within the state. The plan shall be maintained on a continuing basis with the plan document updated at least once every third biennium and shall be used by all participating agencies to guide distribution and expenditure of nonhighway vehicle funds.

NEW SECTION. Sec. 19. There is added to chapter 47, Laws of 1971 ex. sess. and to chapter 46.09 RCW a new section to read as follows:

The interagency committee shall establish a committee of ORV recreationists, including representatives of organized ORV recreation groups, to advise in the development of a state-wide ORV plan, the development of a project funding system, the suitability of ORV projects submitted to the interagency committee for funding and other aspects of ORV recreation as the need may arise.

NEW SECTION. Sec. 20. There is added to chapter 47, Laws of 1971 ex. sess. and to chapter 46.09 RCW a new section to read as follows:

The department of natural resources shall conduct a program of ORV user education and information.

The department of natural resources shall establish a committee of ORV recreationists, including representatives of organized ORV recreation groups, to advise the department relative to any ORV program developed from the funds provided in sections 9 and 14 of this 1977 amendatory act.

Sec. 21. Section 8, chapter 76, Laws of 1970 ex. sess. as last amended by section 1, chapter 153, Laws of 1972 ex. sess. and RCW 67.32.080 are each amended to read as follows:

The following seven categories of trails or areas are hereby established for purposes of this chapter:

(1) Cross-state trails which connect scenic, historical, geological, geographical, or other significant features which are characteristic of the state;

(2) Water-oriented trails which provide a designated path to, on, or along fresh and/or salt water in which the water is the primary point of interest;

(3) Scenic-access trails which give access to quality recreation, scenic, historic or cultural areas of state-wide or national significance;

(4) Urban trails which provide opportunities within an urban setting for walking, bicycling, horseback riding, or other compatible activities. Where appropriate, they will connect parks, scenic areas, historical points, and neighboring communities;

(5) Historical trails which identify and interpret routes which were significant in the historical settlement and development of the state;

(6) (~~All-terrain~~) ORV vehicle trails which are suitable for use by both four-wheel drive vehicles and two-wheel vehicles. Such trails may be included as a part of the trail systems enumerated in subsections (1) (~~through~~), (2), (3) and (5) of this section or may be separately designated;

(7) Off-road and off-trail areas which are suitable for use by both four-wheel drive vehicles and two-wheel vehicles. IAC shall coordinate an inventory and classification of such areas giving consideration to the type of use such areas will receive from persons operating four-wheel drive vehicles and two-wheel vehicles.

The planning and designation of trails shall take into account and give due regard to the interests of federal agencies, state agencies and bodies, counties, municipalities, private landowners and individuals, and interested recreation organizations. It is not required that the above categories be used to designate specific trails, but the IAC will assure that full consideration is given to including trails from all categories within the system. As it relates to all classes of trails and to all types of trail users, it is herein declared as state policy to increase recreational trail access to and within state and federally owned lands and private lands where access may be obtained. It is the intent of the legislature that public recreation facilities be developed as fully as possible to provide greater recreation opportunities for the citizens of the state. The purpose of this 1972 amendatory act is to increase the availability of trails and areas for (~~all-terrain~~) off-road vehicles by granting authority to state and local governments to maintain a system of (~~ATV~~) ORV trails and areas, and to fund the program to provide for such development. State lands should be used as fully as possible for all public recreation which is compatible with the income-producing requirements of the various trusts.

NEW SECTION. Sec. 22. The following acts or parts of acts are each repealed:

- (1) Section 2, chapter 34, Laws of 1975 1st ex. sess. and RCW 46.09.175;
- (2) Section 28, chapter 47, Laws of 1971 ex. sess. and RCW 46.09.210; and
- (3) Section 18, chapter 153, Laws of 1972 ex. sess. and RCW 46.09.220.

NEW SECTION. Sec. 23. There is hereby appropriated from the outdoor recreation account to the interagency committee for outdoor recreation the sum of one hundred fifty thousand dollars, or so much thereof as may be necessary, for the biennium ending June 30, 1979, to carry out the purpose of section 18 of this 1977 amendatory act.

Passed the Senate June 2, 1977.

Passed the House May 28, 1977.

Approved by the Governor June 10, 1977.

Filed in Office of Secretary of State June 10, 1977.