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**SUBSTITUTE HOUSE BILL 2675**

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**State of Washington**

**63rd Legislature**

**2014 Regular Session**

**By** House Transportation (originally sponsored by Representatives Shea, Blake, Moscoso, Reykdal, Sells, Condotta, Scott, and Young)

READ FIRST TIME 02/05/14.

1       AN ACT Relating to provisions applicable to off-road, nonhighway,  
2 and wheeled all-terrain vehicles and their drivers; and amending RCW  
3 38.52.180, 46.09.320, 46.09.442, and 46.09.457.

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

5       **Sec. 1.** RCW 38.52.180 and 2011 c 336 s 791 are each amended to  
6 read as follows:

7       (1) There shall be no liability on the part of anyone including any  
8 person, partnership, corporation, the state of Washington or any  
9 political subdivision thereof who owns or maintains any building or  
10 premises which have been designated by a local organization for  
11 emergency management as a shelter from destructive operations or  
12 attacks by enemies of the United States for any injuries sustained by  
13 any person while in or upon said building or premises, as a result of  
14 the condition of said building or premises or as a result of any act or  
15 omission, or in any way arising from the designation of such premises  
16 as a shelter, when such person has entered or gone upon or into said  
17 building or premises for the purpose of seeking refuge therein during  
18 destructive operations or attacks by enemies of the United States or

1 during tests ordered by lawful authority, except for an act of willful  
2 negligence by such owner or occupant or his or her servants, agents, or  
3 employees.

4 (2) All legal liability for damage to property or injury or death  
5 to persons (except an emergency worker, regularly enrolled and acting  
6 as such), caused by acts done or attempted during or while traveling to  
7 or from an emergency or disaster, search and rescue, or training or  
8 exercise authorized by the department in preparation for an emergency  
9 or disaster or search and rescue, under the color of this chapter in a  
10 bona fide attempt to comply therewith, except as provided in  
11 subsections (3), (4), and (5) of this section regarding covered  
12 volunteer emergency workers, shall be the obligation of the state of  
13 Washington. Suits may be instituted and maintained against the state  
14 for the enforcement of such liability, or for the indemnification of  
15 persons appointed and regularly enrolled as emergency workers while  
16 actually engaged in emergency management duties, or as members of any  
17 agency of the state or political subdivision thereof engaged in  
18 emergency management activity, or their dependents, for damage done to  
19 their private property, or for any judgment against them for acts done  
20 in good faith in compliance with this chapter: PROVIDED, That the  
21 foregoing shall not be construed to result in indemnification in any  
22 case of willful misconduct, gross negligence, or bad faith on the part  
23 of any agent of emergency management: PROVIDED, That should the United  
24 States or any agency thereof, in accordance with any federal statute,  
25 rule, or regulation, provide for the payment of damages to property  
26 and/or for death or injury as provided for in this section, then and in  
27 that event there shall be no liability or obligation whatsoever upon  
28 the part of the state of Washington for any such damage, death, or  
29 injury for which the United States government assumes liability.

30 (3) No act or omission by a covered volunteer emergency worker  
31 while engaged in a covered activity shall impose any liability for  
32 civil damages resulting from such an act or omission upon:

- 33 (a) The covered volunteer emergency worker;
- 34 (b) The supervisor or supervisors of the covered volunteer  
35 emergency worker;
- 36 (c) Any facility or their officers or employees;
- 37 (d) The employer or sponsoring organization of the covered  
38 volunteer emergency worker;

1 (e) The owner of the property or vehicle where the act or omission  
2 may have occurred during the covered activity;

3 (f) Any local organization that registered the covered volunteer  
4 emergency worker; and

5 (g) The state or any state or local governmental entity.

6 (4) The immunity in subsection (3) of this section applies only  
7 when the covered volunteer emergency worker was engaged in a covered  
8 activity:

9 (a) Within the scope of his or her assigned duties;

10 (b) Under the direction of a local emergency management  
11 organization or the department, or a local law enforcement agency for  
12 search and rescue; and

13 (c) The act or omission does not constitute gross negligence or  
14 willful or wanton misconduct.

15 (5) For purposes of this section:

16 (a) "Covered volunteer emergency worker" means an emergency worker  
17 as defined in RCW 38.52.010 who (i) is not receiving or expecting  
18 compensation as an emergency worker from the state or local government,  
19 or (ii) is not a state or local government employee unless on leave  
20 without pay status.

21 (b) "Covered activity" means:

22 (i) Providing assistance or transportation authorized by the  
23 department during an emergency or disaster or search and rescue as  
24 defined in RCW 38.52.010, whether such assistance or transportation is  
25 provided at the scene of the emergency or disaster or search and  
26 rescue, at an alternative care site, at a hospital, or while in route  
27 to or from such sites or between sites; or

28 (ii) Participating in training or exercise authorized by the  
29 department in preparation for an emergency or disaster or search and  
30 rescue.

31 (6) Any requirement for a license to practice any professional,  
32 mechanical, or other skill shall not apply to any authorized emergency  
33 worker who shall, in the course of performing his or her duties as  
34 such, practice such professional, mechanical, or other skill during an  
35 emergency described in this chapter.

36 (7) The provisions of this section shall not affect the right of  
37 any person to receive benefits to which he or she would otherwise be

1 entitled under this chapter, or under the workers' compensation law, or  
2 under any pension or retirement law, nor the right of any such person  
3 to receive any benefits or compensation under any act of congress.

4 **Sec. 2.** RCW 46.09.320 and 2011 c 171 s 24 are each amended to read  
5 as follows:

6 ~~((The department shall issue a certificate of title to the owner of  
7 an off-road vehicle. The owner shall pay the fee established under RCW  
8 46.17.100. Issuance of the certificate of title does not qualify the  
9 vehicle for registration under chapter 46.16A RCW.))~~ (1) The  
10 application for a certificate of title of an off-road vehicle must be  
11 made by the owner or owner's representative to the department, county  
12 auditor or other agent, or subagent appointed by the director on a form  
13 furnished or approved by the department and must contain:

14 (a) A description of the off-road vehicle, including make, model,  
15 vehicle identification number or engine serial number if no vehicle  
16 identification number exists, type of body, and model year of the  
17 vehicle;

18 (b) The name and address of the person who is the registered owner  
19 of the off-road vehicle and, if the off-road vehicle is subject to a  
20 security interest, the name and address of the secured party; and

21 (c) Other information the department may require.

22 (2) The application for a certificate of title must be signed by  
23 the person applying to be the registered owner and be sworn to by that  
24 person in the manner described under RCW 9A.72.085.

25 (3) The owner must pay the fee established under RCW 46.17.100.

26 (4) Issuance of the certificate of title does not qualify the off-  
27 road vehicle for registration under chapter 46.16A RCW.

28 **Sec. 3.** RCW 46.09.442 and 2013 2nd sp.s. c 23 s 4 are each amended  
29 to read as follows:

30 (1) Any wheeled all-terrain vehicle operated within this state must  
31 display a metal tag to be affixed to the rear of the wheeled all-  
32 terrain vehicle. The initial metal tag must be issued with an original  
33 off-road vehicle registration and upon payment of the initial vehicle  
34 license fee under RCW 46.17.350(1)(s). The metal tag must be replaced  
35 every seven years at a cost of two dollars. Revenue from replacement

1 metal tags must be deposited into the nonhighway and off-road vehicle  
2 activities program account. The department must design the metal tag,  
3 which must:

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

5 (b) Have the words "RESTRICTED VEHICLE" listed at the top of the  
6 tag;

7 (c) Contain designated identification through a combination of  
8 letters and numbers;

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

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

13 (2) A person who operates a wheeled all-terrain vehicle must have  
14 a current and proper off-road vehicle registration, with the  
15 appropriate off-road tab, and pay the annual vehicle license fee as  
16 provided in RCW 46.17.350(1)(s), which must be deposited into the  
17 nonhighway and off-road vehicle activities program account. The off-  
18 road tab must be issued annually by the department upon payment of  
19 initial and renewal vehicle license fees under RCW 46.17.350(1)(s).

20 (3) A person who operates a wheeled all-terrain vehicle upon a  
21 public roadway must have a current and proper on-road vehicle  
22 registration, with the appropriate on-road tab, which must be of a  
23 bright color that can be seen from a reasonable distance, and pay the  
24 annual vehicle license fee as provided in RCW 46.17.350(1)(r). The on-  
25 road tab must be issued annually by the department upon payment of  
26 initial and renewal vehicle license fees under RCW 46.17.350(1)(r).

27 (4) A wheeled all-terrain vehicle may not be registered for  
28 commercial use.

29 (5) Wheeled all-terrain vehicle registrations and metal tags are  
30 not required under this chapter for a wheeled all-terrain vehicle owned  
31 by a resident of another state that has a vehicle registration issued  
32 in accordance with the laws of the other state. This exemption applies  
33 only to the extent that a similar exemption or privilege is granted  
34 under the laws of that state.

35 **Sec. 4.** RCW 46.09.457 and 2013 2nd sp.s. c 23 s 7 are each amended  
36 to read as follows:

37 (1) A person may operate a wheeled all-terrain vehicle upon any

1 public roadway of this state, not including nonhighway roads and  
2 trails, subject to the following equipment and declaration  
3 requirements:

4 (a) A person who operates a wheeled all-terrain vehicle must comply  
5 with the following equipment requirements:

6 (i) Headlights meeting the requirements of RCW 46.37.030 and  
7 46.37.040 and used at all times when the vehicle is in motion upon a  
8 highway;

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

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

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

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

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

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

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

30 (ix) Brakes in working order;

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

33 (xi) For utility-type vehicles, as described under RCW  
34 46.09.310(19), seatbelts meeting the requirements of RCW 46.37.510.

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

37 (i) Documentation of a safety inspection to be completed by a  
38 licensed wheeled all-terrain vehicle dealer or motor vehicle repair

1 shop in the state of Washington that must outline the vehicle  
2 information and certify under oath that all wheeled all-terrain vehicle  
3 equipment as required under this section meets the requirements  
4 outlined in state and federal law. A person who makes a false  
5 statement regarding the inspection of equipment required under this  
6 section is guilty of false swearing, a gross misdemeanor, under RCW  
7 9A.72.040;

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

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

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

19 (v) A release signed by the owner of the wheeled all-terrain  
20 vehicle and verified by the department, county auditor or other agent,  
21 or subagent appointed by the director that releases the state from any  
22 liability and outlines that the owner understands that the original  
23 wheeled all-terrain vehicle was not manufactured for on-road use and  
24 that it has been modified for use on public roadways.

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

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