

## WOHVA SB 5366 White Paper as of 2/27/12

### Effects of SB 5366 as passed by the House Transportation Committee 2/24/12

#### **\* \* \* \* \*** Changes affecting all WA OHV users -

Enacts a **Closed Unless Specifically Designated Open** policy which will **immediately close all of the already inventoried OHV trails under consideration for designation by various public land managers** that have not yet been designated and immediately subject users of those secondary trails to a fine of up to \$500, e.g., trails on DNR Lands that have existed for many years and are neither signed open nor closed; similar situations exist with many power line right of ways, etc. in WA State when this law goes into effect.

Will **require** a law enforcement officer to initiate an investigation for the purpose of issuing an infraction citation with a up to a \$500 fine **without Law Enforcement witnessing the purported violation**. State Law currently requires a Law Enforcement Officer (LEO) to personally witness Infractions, e.g., LEO cannot issue a citation because someone said you were speeding, as you are guilty until proven innocent once an infraction citation is issued, i.e., in court the burden of proof is on you to prove you are innocent by a preponderance of the evidence instead of the court having to prove you are guilty by a preponderance of the evidence.

**Allows NOVA motorized funding to be used in areas where OHV use is not the primary use.** To date non-motorized funding has to be used in those areas if NOVA funds are desired. It may be important to recognize that the motorized users are now the minority group on the NOVA Advisory Committee and have been for some time.

Will require **all ORV operators under 16 years of age to remain within 300 feet of a licensed adult supervising their operation** when crossing/riding on a city/county/state highway/nonhighway road or primitive road.

**The definition of "Four-wheel all-terrain vehicle" (ATV) is currently in error** as it does not require four wheels and therefore (inadvertently?) includes motorcycles in the current definition. With this definition of ATV the only vehicles allowed under the Hinkle Bill (section 6) would effectively be UTVs. All ATVs (per section 2) would now have to have the street licensing to use roads.

#### **Additional Changes in the works for ALL ATV Owners!**

A review of the public hearing in the House Transportation Committee on 2/24/2012 reveals that the anti-access supporters of this bill expect it to **require every ATV owner to purchase a license plate regardless of whether or not the owner wants to operate it on road.**

The anti-access people testifying for this bill want to be able to take a picture of any ATV and be able to identify it to press law enforcement to issue citations.

**Representative Shea who submitted the current language answered** the anti-access supporter's question as to whether or not all ATVs would have to have a license plate by **stating that all ATVs will have one of these license plates.** We suspect more changes are in the works to require this with the addition of an on-road sticker for those going through the process to obtain one as the current language does not do that.

### NEW ATV ONLY specific regulations

**NOTE – These regulations EXCLUDE non-street legal dirt bikes, non-street legal 4WDs, side-by-sides and any other type of non-street legal OHV.**

Will require all ATV owners wanting to use roads to purchase a license plate.

Will require ATV owners to purchase an ORV tag in addition to their new road use license for off road use of that vehicle.

Will require all ATV operators to wear a helmet during operation on public or nonhighway roads except those open to all ORV use.

Will require ATV operators taking advantage of the license plate provision for road use to be “insured under a motor vehicle liability policy in compliance with chapter 46.30 RCW” and have “a valid driver's license.” But will not require insurance for nonhighway or off road use of ATVs.

Will require all ATV operators to have a windshield or wear eye protection for operation on nonhighway roads.

Will require ATV owners to add additional equipment to their ATVs in order to qualify them for the “on-road” license plate.

Will require ATV **owners** or a licensed ATV **shop** to sign a Statement of Compliance under oath with gross misdemeanor penalties (which allow up to an \$11,000 fine and jail time) for misrepresentation of ATV compliance in order to obtain the "on-road" license plate.

Will allow kids to ride their ATVs to school (per public hearing testimony from the WSP) or adults to ride them into town for shopping trips by default unless local government jurisdictions specifically take action to close roads to their use, as long as they and their ATV complies with the new rules.

Will not force the USFS to open any forest roads to ATV or ORV use as the State has no jurisdiction over land manager decisions regarding use of those roads.

May convince some USFS land managers to allow ATVs to use their roads with their new street license but those same land managers could allow OHVs to use them now without these additions if they wanted to do so.

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Will not allow ATVs with the new license plate to cross public highways with speed limits in excess of 35 MPH **from a trail** unless the trail is an official ORV trail with a speed limit of under 35 MPH.

Will establish a new pool of funds from the ATV license plate sales that will be administered by the WA State DOT to be used for studies to approve or ban ATV use, provide signage where OHVs are prohibited on roads, provide signage denoting designation for OHV use, etc.

Will allow persons under 16 years of age to operate an off road vehicle across a highway in this state, on a non-highway road designated for ORV use, or on a primitive road under the direct supervision of a person 18 years of age or older possession a valid driver's license.

ATVs will not be allowed on most State Highways unless within City limits where the speed limit is 35 MPH or less and

Opens all roads to ATVs in cities with a population of less than 15,000 by default except State Highways with speed limits over 35 MPH unless that city designates some or all of their roadways to be unsuitable for ATV use.

City's with a population of 15,000 or more may by ordinance approve ATV use on city roadways.