

# Initiative Measure No. 1046

**Filed**

**FEB 09 2009**

**SECRETARY OF STATE**

1 AN ACT Relating to eliminating certain requirements on the use of  
2 seatbelts, helmets, and fluorescent hunter orange clothing; amending  
3 RCW 46.09.120, 46.37.530, 46.37.535, and 77.12.047; creating a new  
4 section; and repealing RCW 46.61.688.

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

6 **Sec. 1.** RCW 46.09.120 and 2006 c 212 s 3 are each amended to read  
7 as follows:

8 (1) Except as provided in subsection (~~((4))~~) (3) of this section,  
9 it is a traffic infraction for any person to operate any nonhighway  
10 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;

1 (d) Without a spark arrester approved by the department of natural  
2 resources;

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

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

13 (ii) With the vehicle stationary and the engine running at a steady  
14 speed equal to one-half of the manufacturer's maximum allowable ("red  
15 line") engine speed or where the manufacturer's maximum allowable  
16 engine speed is not known the test speed in revolutions per minute  
17 calculated as sixty percent of the speed at which maximum horsepower is  
18 developed; and

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

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

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

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

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

35 (j) On a private nonhighway road in violation of RCW 46.09.115(3).

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

1       ~~(3) ((a) Except for an off-road vehicle equipped with seat belts~~  
2 ~~and roll bars or an enclosed passenger compartment, it is a traffic~~  
3 ~~infraction for any person to operate or ride an off-road vehicle on a~~  
4 ~~nonhighway road without wearing upon his or her head a motorcycle~~  
5 ~~helmet fastened securely while in motion. For purposes of this~~  
6 ~~section, "motorcycle helmet" has the same meaning as provided in RCW~~  
7 ~~46.37.530.~~

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

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

13       ~~(4))~~ It is not a traffic infraction to operate an off-road vehicle  
14 on a street, road, or highway as authorized under RCW 46.09.180.

15       Sec. 2. RCW 46.37.530 and 2003 c 197 s 1 are each amended to read  
16 as follows:

17       (1) It is unlawful:

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

29       (b) For any person to operate a motorcycle or motor-driven cycle  
30 which does not have a windshield unless wearing glasses, goggles, or a  
31 face shield of a type conforming to rules adopted by the state patrol;

32       ~~(c) ((For any person to operate or ride upon a motorcycle, motor-~~  
33 ~~driven cycle, or moped on a state highway, county road, or city street~~  
34 ~~unless wearing upon his or her head a motorcycle helmet except when the~~  
35 ~~vehicle is an antique motor-driven cycle or automobile that is licensed~~  
36 ~~as a motorcycle or when the vehicle is equipped with seat belts and~~  
37 ~~roll bars approved by the state patrol. The motorcycle helmet neck or~~

1 chin strap must be fastened securely while the motorcycle or motor-  
2 driven cycle is in motion. Persons operating electric-assisted  
3 bicycles shall comply with all laws and regulations related to the use  
4 of bicycle helmets;

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

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

9 (2) The state patrol may adopt and amend rules, pursuant to the  
10 Administrative Procedure Act, concerning standards for glasses,  
11 goggles, and face shields.

12 (3) For purposes of this section, "motorcycle helmet" means a  
13 protective covering for the head consisting of a hard outer shell,  
14 padding adjacent to and inside the outer shell, and a neck or chin  
15 strap type retention system, with a sticker indicating that the  
16 motorcycle helmet meets standards established by the United States  
17 Department of Transportation.

18 **Sec. 3.** RCW 46.37.535 and 1990 c 270 s 8 are each amended to read  
19 as follows:

20 It is unlawful for any person to rent out motorcycles, motor-driven  
21 cycles, or mopeds unless the person also has on hand for rent helmets  
22 of a type conforming to rules adopted by the state patrol.

23 ~~((It shall be unlawful for any person to rent a motorcycle, motor-  
24 driven cycle, or moped unless the person has in his or her possession  
25 a helmet of a type approved by the state patrol, regardless of from  
26 whom the helmet is obtained.))~~

27 **Sec. 4.** RCW 77.12.047 and 2001 c 253 s 14 are each amended to read  
28 as follows:

29 (1) The commission may adopt, amend, or repeal rules as follows:

30 (a) Specifying the times when the taking of wildlife, fish, or  
31 shellfish is lawful or unlawful.

32 (b) Specifying the areas and waters in which the taking and  
33 possession of wildlife, fish, or shellfish is lawful or unlawful.

34 (c) Specifying and defining the gear, except for hunter's clothing,  
35 appliances, or other equipment and methods that may be used to take

1 wildlife, fish, or shellfish, and specifying the times, places, and  
2 manner in which the equipment may be used or possessed.

3 (d) Regulating the importation, transportation, possession,  
4 disposal, landing, and sale of wildlife, fish, shellfish, or seaweed  
5 within the state, whether acquired within or without the state.

6 (e) Regulating the prevention and suppression of diseases and pests  
7 affecting wildlife, fish, or shellfish.

8 (f) Regulating the size, sex, species, and quantities of wildlife,  
9 fish, or shellfish that may be taken, possessed, sold, or disposed of.

10 (g) Specifying the statistical and biological reports required from  
11 fishers, dealers, boathouses, or processors of wildlife, fish, or  
12 shellfish.

13 (h) Classifying species of marine and freshwater life as food fish  
14 or shellfish.

15 (i) Classifying the species of wildlife, fish, and shellfish that  
16 may be used for purposes other than human consumption.

17 (j) Regulating the taking, sale, possession, and distribution of  
18 wildlife, fish, shellfish, or deleterious exotic wildlife.

19 (k) Establishing game reserves and closed areas where hunting for  
20 wild animals or wild birds may be prohibited.

21 (l) Regulating the harvesting of fish, shellfish, and wildlife in  
22 the federal exclusive economic zone by vessels or individuals  
23 registered or licensed under the laws of this state.

24 (m) Authorizing issuance of permits to release, plant, or place  
25 fish or shellfish in state waters.

26 (n) Governing the possession of fish, shellfish, or wildlife so  
27 that the size, species, or sex can be determined visually in the field  
28 or while being transported.

29 (o) Other rules necessary to carry out this title and the purposes  
30 and duties of the department.

31 (2) Subsections (1) (a), (b), (c), (d), and (f) of this section do  
32 not apply to private tideland owners and lessees and the immediate  
33 family members of the owners or lessees of state tidelands, when they  
34 take or possess oysters, clams, cockles, borers, or mussels, excluding  
35 razor clams, produced on their own private tidelands or their leased  
36 state tidelands for personal use.

37 "Immediate family member" for the purposes of this section means a  
38 spouse, brother, sister, grandparent, parent, child, or grandchild.

1 (3) Except for subsection (1)(g) of this section, this section does  
2 not apply to private sector cultured aquatic products as defined in RCW  
3 15.85.020. Subsection (1)(g) of this section does apply to such  
4 products.

5 NEW SECTION. Sec. 5. RCW 46.61.688 (Safety belts, use required--  
6 Penalties--Exemptions) and 2007 c 510 s 5, 2003 c 353 s 4, 2002 c 328  
7 s 2, 2000 c 190 s 3, 1990 c 250 s 58, & 1986 c 152 s 1 are each  
8 repealed.

9 NEW SECTION. Sec. 6. All penalty and fine amounts collected for  
10 traffic infractions relating to the failure to use or improper use of  
11 seat belts and helmets and for infractions relating to the failure to  
12 wear fluorescent hunter orange clothing must be reimbursed to all  
13 persons who were penalized or fined for these infractions within the  
14 three years prior to the effective date of this act.

15 NEW SECTION. Sec. 7. If any provision of this act or its  
16 application to any person or circumstance is held invalid, the  
17 remainder of the act or the application of the provision to other  
18 persons or circumstances is not affected.

--- END ---