



OFF-HIGHWAY MOTOR VEHICLE RECREATION COMMISSION

West Sacramento, CA

July 28, 2023

STAFF REPORT: 2023 OHMVR Program Report
STAFF: Sasha Wessitsh, Captain OHMVR
SUBJECT: Recreational Off Highway Vehicles (ROVs) and Use on Public Highways

Summary

On May 9th, 2023, Commissioner Tom Lemmon inquired about the legal use of ROV's on highways in California. He requested information about other states that have approved the use of ROV's in varied capacities of operation and whether or not out of state licenses are recognized in California. In addition, he was interested in clarification of laws pertaining to golf carts and three wheeled motorcycles. This report is to address these questions and concerns.

Discussion

All Off-Highway Vehicle use in the State of California is governed by the California Vehicle code and mostly by Division 16.5 of the California Vehicle Code, better known as the Chappie-Z'berg Off-Highway Motor Vehicle Law of 1971.

California Vehicle Code Section 38001. Off-Highway Vehicles

(a) – Except as otherwise provided, this divisions applies to off-highway motor vehicles, as defined in Section 38006, **on lands, other than a highway**, that are open and accessible to the public, including any land acquired, developed, operated or maintained, in whole or in part, with money from the Off-Highway Vehicle Trust Fund, except private lands under the immediate control of the owner or his or her agent where permission is required and has been granted to operate a motor vehicle. For purposes of this division, the term “highway” does not include fire trails, logging roads, service roads regardless of surface composition, or other roughly graded trails and roads upon which vehicular travel by the public is permitted.

California Vehicle Code 38006. Off-Highway Motor Vehicle

As used in this division, an "off-highway motor vehicle" is any of the following:

- (a) A motor vehicle subject to the provisions of subdivision (a) of Section 38010.
- (b) A motor vehicle registered under Section 4000, when such motor vehicle is operated on land to which this division has application.
- (c) ***A motor vehicle owned or operated by a nonresident of this state, whether or not such motor vehicle is identified or registered in a foreign jurisdiction, when such motor vehicle is operated on lands to which this division has application.***

California Vehicle Code 38026. Combined Use

(a) In addition to Section 38025 and after complying with subdivision (c) of this section, if a local authority, an agency of the federal government, or the Director of Parks and Recreation finds that a highway, or portion of a highway, ***UNDER THE JURISDICTION OF the authority, agency, or the director, as the case may be, is located in a manner that provides a connecting link between off-highway motor vehicle trail segments, between an off-highway motor vehicle recreational use area and necessary service facilities, or between lodging facilities and an off-highway motor vehicle recreational facility and if it is found that the highway is designed and constructed so as to safely permit the use of regular vehicular traffic and also the driving of off-highway motor vehicles on that highway,*** the local authority, by resolution or ordinance, agency of the federal government, or the Director of Parks and Recreation, as the case may be, may designate that highway, or a portion of a highway, for ***combined use*** and shall prescribe rules and regulations therefor. ***A highway, or portion of a highway, shall not be so designated for a distance more than three miles,*** except as provided in Sections 38026.1 and 38026.2. A freeway shall not be designated under this section.

(b) The Off-Highway Motor Vehicle Recreation Commission may propose highway segments for consideration by local authorities, an agency of the federal government, or the director of Parks and recreation for combined use.

(c) Prior to designating a highway or portion of a highway on the motion of the local authority, an agency of the federal government, or the Director of Parks and Recreation, or as a recommendation of the Off-Highway Motor Vehicle Recreation Commission, a local authority, and agency with the federal government, or the Director of Parks and Recreation shall notify the Commission of the California Highway Patrol, and shall not designate any segment pursuant to subdivision (a) which, in the opinion of the commissioner, would create a potential traffic safety hazard.

California Vehicle Code 345. Golf Cart Defined

A "golf cart" is a motor vehicle having not less than three wheels in contact with the ground, having an unladen weight less than 1,300 pounds, which is designed to be and is operated at not more than 15 miles per hour and designed to carry golf equipment and not more than two persons, including the driver.

California Vehicle code 360. Highway Defined

“Highway” is a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. Highway includes street.

California Vehicle Code 21115. Operation of Golf Carts

(a) If a local authority finds that a highway under its jurisdiction is located adjacent to, or provides access to, a golf course and between the golf course and the place where golf carts are parked or stored or is within or bounded by a real estate development offering golf facilities and is designed and constructed, so as to safely permit the use of regular vehicular traffic and also the driving of golf carts on the highway, the local authority may, by resolution or ordinance, designate the highway or portion of the highway for combined use and prescribe rules and regulations that shall have the force of law. No highway shall be so designated for a distance of more than one mile from the golf course if the highway is not located within a development or beyond the area of a development, provided, the finding of the local authority in this respect shall be conclusive. Upon the designation becoming effective it shall be lawful to drive golf carts upon the highway in accordance with the prescribed rules and regulations. The rules and regulations may establish crossing zones and speed limits and other operating standards but shall not require that the golf carts conform to any requirements of this code with respect to registration, licensing, or equipment, except that if operated during darkness the golf cart shall be subject to the provisions of Section 24001.5 regarding equipment.

The rules and regulations shall not be effective until appropriate signs giving notice thereof are posted along the highway affected.

A “real estate development offering golf facilities,” for purposes of this section, means an area of single-family or multiple-family residences, the owners or occupants of which are eligible for membership in, or the use of, one or more golf courses within the development by virtue of their ownership or occupancy of a residential dwelling unit in the development.

(b) For purposes of this section, a “golf cart” includes a low-speed vehicle.

In addition to these California law’s which clearly regulate the use of Off-Highway Vehicles (OHV’s), including Recreational Off-Highway Vehicles (ROV’s) and provide strict guidelines that these vehicles shall only be utilized Off-Highway the safety, equipment, and sound specifications for these OHV’s are not comparable to on highway vehicles and do not meet Federal National Highway Traffic Safety Administration (NHTSA), within the U.S. Department of Transportation (DOT), standards.

This means that Off-Highway Vehicles utilized on highway provide a significantly increased potential for injury including but not limited to the following reasons:

- Inadequate tires
- Inadequate brakes
- Inadequate suspension (handling dynamics)
- Inadequate lighting

Also, due to minimal regulations required for Off-Highway Vehicles there is increased emissions and noise emanating from these vehicles which would greatly impact communities. (See attached analysis conducted by DPS Technical, Inc)

In the Polaris user manual for the 2020 RZR S 1000/ S4 1000 it states the following under the Operating on Pavement section:

This vehicle's tires are designed for off-road use, not for use on pavement. Operating this vehicle on paved surfaces (including sidewalks, paths, parking lots and driveways) may adversely affect the handling of the vehicle and may increase the risk of loss of control and accident or rollover. Avoid operating the vehicle on pavement. If it's unavoidable, travel slowly, travel short distances and avoid sudden turns or stops.

Conclusion:

States must abide by their local legislation in addition to Federal regulations. State Legislation outside of California is not applicable to California. The California Vehicle Code Division 16.5 clearly separates Off-Highway and On-Highway vehicle use and defines the vehicles to be used in these settings while also determining that out-of-state Off-Highway Vehicle licensing for On-Highway use is not applicable in California [CVC 38006 (c)].

The California Vehicle Code allows for the use of Off-Highway Vehicles on Combined Use Highways when the highway or portion of the highway that is suggested for review for combined use by the governing entity meets specific criteria and is verified by the California Highway Patrol. CVC 38026 provides the guidelines for the process to submit and review proposed locations for Combined Use Highways.

Federal regulations provided by NHTSA and DOT set standards for equipment, sound, and emissions for On-Highway vehicles which Off-Highway vehicles do not meet. Studies and manufacturers recommend avoiding the use of Off-Highway Vehicles On-Highway because they pose an inherent risk to the operator, passengers, and other drivers on the highways due to the specific design purpose being solely for Off-Highway use.

In addition to the federal equipment and safety regulations, the California Air Resources Board (CARB) enforces strict air emission standards for On-Highway and Off-Highway motor vehicles sold in California. ROV's sold in California are certified by manufacturers only for Off-Highway operation. It is not legal to modify ROV emissions equipment on any Off-Highway motor vehicle to allow On-Highway operation.

The California Vehicle Code sections §345., §21115., §21115.1., §21716., define golf carts and the specific locations that they can be operated On-Highway when meeting the defined criteria. These code sections are very restrictive and allow low speed golf cart operation in communities with maximum speed limits of 25 miles an hour and up to one mile from a golf course in the same development. As noted above in CVC 360, the definition of highway includes streets and other types of roads and should not be interpreted as "highway" in the general sense such as a designated state highway. Golf carts are not allowed on state highways.

The California Vehicle Code section §400 defines motorcycle which includes three wheeled vehicles. Since 2003 no Off-Highway motor vehicles can be modified for On-Highway operation.

Commission Action

For information only.

Attachments

ROV's and On Highway use Discussion V. CR 6.19.23