

California
Off-Highway Motor Vehicle
Laws

2008

for the

OFF-HIGHWAY MOTOR VEHICLE RECREATION
PROGRAM

CALIFORNIA STATE PARKS,
OFF-HIGHWAY MOTOR VEHICLE RECREATION DIVISION

THROUGH THE 2007 LEGISLATIVE SESSION

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Contents

Public Resources Code 1

 DIVISION 4. Forests, Forestry and Range and Forage Lands 1

 PART 2, CHAPTER 6. Prohibited Activities..... 1

 ARTICLE 2. Prohibited Activities..... 1

 DIVISION 5. Parks and Monuments 3

 CHAPTER 1. State Parks and Monuments..... 3

 ARTICLE 1. State Park System..... 3

 CHAPTER 1.25. Off-Highway Motor Vehicle Recreation 11

 ARTICLE 1. General Provisions 11

 ARTICLE 2. Off-Highway Motor Vehicle Recreation Commission 14

 ARTICLE 3. Division of Off-Highway Motor Vehicle Recreation..... 18

 ARTICLE 4. State Vehicular Recreation Areas 23

 ARTICLE 4.5. California Statewide Motorized Trail 25

 ARTICLE 5. Local Assistance Grants, Grants to Nonprofit Organizations and
 Educational Institutions, and Cooperative Agreements with
 Federal Agencies 26

 ARTICLE 6. Fiscal Management 33

 ARTICLE 7. Termination 35

 CHAPTER 1.27. California SNO-PARK Permit Program..... 36

 ARTICLE 1. General Provisions 36

 ARTICLE 2. Designation of Parking Areas 37

 ARTICLE 3. Sno-Park Permit Program 38

 ARTICLE 4. Permits..... 38

 ARTICLE 5. Revenues 39

Revenue and Taxation Code.....	40
DIVISION 2. Other Taxes.....	40
PART 2, CHAPTER 7. Overpayments and Refunds	40
ARTICLE 1. Refunds on Certain Sales	40
PART 2, CHAPTER 10. Distribution of Proceeds.....	41
Vehicle Code	44
DIVISION 1. Words and Phrases Defined.....	44
DIVISION 2. Administration	46
CHAPTER 1. The Department of Motor Vehicles	46
ARTICLE 2. Powers and Duties.....	46
DIVISION 3. Registration of Vehicles and Certificates of Title	47
CHAPTER 1. Original and Renewal of Registration; Issuance of Certificates of Title	47
ARTICLE 1. Vehicles Subject to Registration	47
DIVISION 6. Drivers' Licenses.....	48
CHAPTER 1. Issuance of Licenses, Expiration, and Renewal.....	48
ARTICLE 1. Persons Required to Be Licensed, Exemptions, and Age Limits	48
CHAPTER 4. Violation of License Provisions.....	49
DIVISION 11. Rules of the Road.....	57
CHAPTER 12. Public Offenses	57
ARTICLE 1. Driving Offenses	57
ARTICLE 1.3. Offenses by Persons Under 21 Years of Age Involving Alcohol ...	57
ARTICLE 1.5. Juvenile Offenses Involving Alcohol.....	58
ARTICLE 2. Offenses Involving Alcohol and Drugs	58

DIVISION 16.5. Off-Highway Vehicles 65

 CHAPTER 1. General Provisions 65

 CHAPTER 2. Registration of Off-Highway Vehicles; Original and Renewal of
 Identification; Issuance of Certificates of Ownership 66

 ARTICLE 1. Motor Vehicles Subject to Identification 66

 ARTICLE 2. Original Identification 71

 ARTICLE 3. Evidences of Identification 74

 ARTICLE 4. Renewal of Identification 77

 ARTICLE 5. Refusal of Identification..... 79

 ARTICLE 6. Identification Plate or Device..... 79

 ARTICLE 7. Dismantling of Off-Highway Motor Vehicles 81

 ARTICLE 8. Transfers of Title or Interest 81

 ARTICLE 9. Identification Fees 83

 Chapter 5. Off-Highway Vehicle Operating Rules 90

 ARTICLE 1. Traffic Signs, Signals, and Markings 90

 ARTICLE 2. Operating Controls 92

 ARTICLE 3. Speed Laws 93

 ARTICLE 4. Turning and Starting 93

 ARTICLE 5. Reckless Driving 93

 ARTICLE 6. Littering and Environmental Protection..... 94

 CHAPTER 6. Equipment of Off-Highway Vehicles..... 95

 ARTICLE 1. General Provisions 95

 ARTICLE 2. Lighting Equipment 96

 ARTICLE 3. Brakes..... 96

Contents

ARTICLE 4. Equipment	97
ARTICLE 5. Emission Control Equipment	100
CHAPTER 7. All-Terrain Vehicles	102
DIVISION 17. Offenses and Prosecution.....	106
CHAPTER 2. Penalties	106
ARTICLE 4. Notice to Correct Violation.....	106
DIVISION 18. Penalties and Disposition of Fees, Fines and Forfeitures.....	107
CHAPTER 1. Penalties	107
ARTICLE 1. Public Offenses	107
ARTICLE 1. Fines and Forfeitures.....	107

**CALIFORNIA
PUBLIC RESOURCES CODE**

DIVISION 4. Forests, Forestry and Range and Forage Lands

PART 2, CHAPTER 6. Prohibited Activities

ARTICLE 2. Prohibited Activities

[Spark Arrester Provisions Affecting OHVs]

§ 4442. “Spark Arrester” in Exhaust System of Internal Combustion Machine

- (a) Except as otherwise provided in this section, no person shall use, operate, or allow to be used or operated, any internal combustion engine which uses hydrocarbon fuels on any forest-covered land, brush-covered land, or grass-covered land unless the engine is equipped with a spark arrester, as defined in subdivision (c), maintained in effective working order or the engine is constructed, equipped, and maintained for the prevention of fire pursuant to Section 4443.
- (b) Spark arresters affixed to the exhaust system of engines or vehicles subject to this section shall not be placed or mounted in such a manner as to allow flames or heat from the exhaust system to ignite any flammable material.
- (c) A spark arrester is a device constructed of nonflammable materials specifically for the purpose of removing and retaining carbon and other flammable particles over 0.0232 of an inch in size from the exhaust flow of an internal combustion engine that uses hydrocarbon fuels or which is qualified and rated by the United States Forest Service.
- (d) Engines used to provide motive power for trucks, truck tractors, buses, and passenger vehicles, except motorcycles, are not subject to this section if the exhaust system is equipped with a muffler as defined in the Vehicle Code.
- (e) Turbocharged engines are not subject to this section if all exhausted gases pass through the rotating turbine wheel, there is no exhaust bypass to the atmosphere, and the turbocharger is in effective mechanical condition.
- (f) Motor vehicles when being operated in an organized racing or competitive event upon a closed course are not subject to this section if the event is conducted under the auspices of a recognized sanctioning body and by permit issued by the fire protection authority having jurisdiction.

§ 4442.5. Prohibition Against Sale, Offer for Sale, Lease, or Rent of Internal Combustion Engine Without Providing Written Notice of Violation

No person shall sell, offer for sale, lease, or rent to any person any internal combustion engine subject to Section 4442 or 4443, and not subject to Section 13005 of the Health and Safety Code, unless the person provides a written notice to the purchaser or bailee, at the time of sale or at the time of entering into the lease or rental contract, stating that it is a violation of Section 4442 or 4443 to use or operate the engine on any forest-covered, brush-covered, or grass-covered land unless the engine is equipped with a spark arrester, as defined in Section 4442, maintained in effective working order or the engine is constructed, equipped, and maintained for the prevention of fire pursuant to Section 4443.

§ 4443. Operation of Handheld Portable, Multiposition, Internal Combustion Engines Manufactured After Specified Date; Use of Hydrocarbon Fuels; Standards for Engines

No person shall use, operate, or cause to be operated on any forest-covered land, brush-covered land, or grass-covered land any handheld portable, multiposition, internal-combustion engine manufactured after June 30, 1978, which is operated on hydrocarbon fuels, unless it is constructed and equipped and maintained for the prevention of fire.

The board shall, by regulation, specify standards for construction, equipment, and maintenance of such engines for the prevention of fire and shall specify a uniform method of testing to be used by engine and equipment manufacturers, governmental agencies, and equipment users. The regulations shall include specification of exhaust system standards for carbon particle retention or destruction, exposed surface temperature, gas temperature, flammable debris accumulation, durability, and serviceability.

Portable power saw and other portable equipment described in this section which were manufactured prior to July 1, 1978, shall be subject to fire safety design specifications as prescribed by the board.

**CALIFORNIA
PUBLIC RESOURCES CODE**

DIVISION 5. Parks and Monuments

CHAPTER 1. State Parks and Monuments

ARTICLE 1. State Park System

**[State Park Provisions Affecting the OHV Program with
Applicable Provisions Highlighted in *Italic Text*]**

§ 5001. State Park System

The Department of Parks and Recreation has control of the state park system.

§ 5001.1. “Department” and “Director”

As used in this division, “department” means the Department of Parks and Recreation and “director” means the Director of Parks and Recreation.

§ 5001.5. Reference to State Park System Deemed to be Reference to State Vehicular Recreation Area and Trail System

Whenever any reference is made to the state park system with respect to a duty, power, purpose, responsibility, or jurisdiction that can be exercised or carried out within the state vehicular recreation areas, it shall be deemed to be also a reference to, and to mean, the state vehicular recreation areas.

§ 5001.8. Use of Motor Vehicles in Units of the State Park System

- (a) The use of motor vehicles in units of the state park system is subject to the following limitations:
- (1) In state wildernesses, natural preserves, and cultural preserves, use is prohibited.
 - (2) In state parks, state reserves, state beaches, wayside campgrounds, and historical units, use is confined to paved areas and other areas specifically designated and maintained for normal ingress, egress, and parking.
 - (3) In state recreation areas, use is confined to specifically designated and maintained roads and trails.

- (b) The use of motor vehicles on lands in the state vehicular recreation areas is confined to areas and routes designated for that purpose.

§ 5002.1. State Park System Unit Inventory

Prior to the classification or reclassification of a unit of the state park system into any of the categories specified in Article 1.7 (commencing with Section 5019.50) of this chapter, the department shall prepare an inventory of the unit's scenic, natural, and cultural features, including, but not limited to, ecological, archaeological, historical, and geological features. The inventory shall be submitted by the department to the State Park and Recreation Commission for its consideration when classifying or reclassifying a unit.

§ 5002.2. General Plan Preparation or Revision

- (a) Following classification or reclassification of a unit by the State Park and Recreation Commission, and prior to the development of any new facilities in any previously classified unit, the department shall prepare a general plan or revise any existing plan, as the case may be, for the unit. The general plan shall consist of elements that will evaluate and define the proposed land uses, facilities, concessions, operation of the unit, any environmental impacts, and the management of resources, and shall serve as a guide for the future development, management, and operation of the unit.

The general plan constitutes a report on a project for the purposes of Section 21100. The general plan for a unit shall be submitted by the department to the State Park and Recreation Commission for approval.

- (b) The resource element of the general plan shall evaluate the unit as a constituent of an ecological region and as a distinct ecological entity, based upon historical and ecological research of plant-animal and soil-geological relationships and shall contain a declaration of purpose, setting forth specific long-range management objectives for the unit consistent with the unit's classification pursuant to Article 1.7 (commencing with Section 5019.50), and a declaration of resource management policy, setting forth the precise actions and limitations required for the achievement of the objectives established in the declaration of purpose.
- (c) Notwithstanding the requirements of subdivision (a), the department is not required to prepare a general plan for a unit that has no general plan or to revise an existing plan, as the case may be, if the only development contemplated by the department consists of the repair, replacement, or rehabilitation of an existing facility; the construction of a temporary facility, so long as such construction does not result in the permanent commitment of a resource of the unit; any undertaking necessary for the protection of public health or safety; or any emergency measure necessary for the immediate protection of natural or cultural resources; or any combination thereof at a single unit.

Any development is subject to the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

- (d) Any general plan approved prior to July 1, 1972, may be used as the basis for development if the director finds that there has been no significant change in the resources of the unit since approval of the plan and that the plan is compatible with current policies governing development of the unit and the classification of the unit.
- (e) Consistent with good planning and sound resource management, the department shall, in discharging its responsibilities under this section, attempt to make units of the state park system accessible and usable by the general public at the earliest opportunity.
- (f) The department may prepare a general plan which includes more than one unit of the state park system for units which are in close proximity to one another and which have similar resources and recreational opportunities if that action will facilitate the protection of public resources and public access to units of the state park system.

§ 5002.3. Public Hearing Required

A public hearing shall be scheduled by the State Park and Recreation Commission to consider each matter of classification or reclassification of a unit and of approval of the department's general plan for a unit. Notice of the hearing shall be posted in plain sight at one or more places within the affected unit, published in one or more newspapers of general circulation in each county within which the affected unit is located, and mailed to every person who has filed a request for notice of the hearing with the commission. If the notice of hearing is published in a weekly newspaper, it shall appear therein on at least two different days of publication; and if in a newspaper published more often, there shall be at least five days from the first to the last day of publication, both days included. The content of the notice of hearing shall substantially comply with the requirements of Section 11346.5 of the Government Code.

Copies of the department's inventory of features, in the case of a hearing on classification or reclassification, or copies of the department's general plan, in the case of a hearing on approval of the plans, shall be made available to the public at the department's appropriate regional and district offices on the last date of publication of the notice.

The hearing shall be held by the commission in, or within a radius of 100 miles of, the City of San Diego, Los Angeles, San Francisco, San Bernardino, Eureka, Redding, Fresno, Ukiah, Monterey, San Luis Obispo, Santa Barbara, or Sacramento, whichever is closest to the unit affected, not less than 30 days, nor more than 60 days, after the last date of publication of the notice. The hearing shall be conducted in the manner specified in Section 11346.8 of the Government Code. The vote of each individual member of the commission on each matter of classification or reclassification and of approval of the department's general plan shall be recorded when the final decision of the commission is announced.

§ 5002.4. Legislative Requests

The department shall furnish a copy of the general plan for any unit of the state park system for which a plan has been prepared to any Member of the Legislature, upon request.

§ 5003.15. Disposition of Proceeds of Sale of Property Originally Acquired for State Park Purposes

The net proceeds of any sale made on behalf of the department pursuant to Section 11011 of the Government Code of any real property originally acquired for state park purposes, regardless of whether that real property is under the jurisdiction of the department, shall be deposited in the fund which was the original source for the acquisition of the property and shall be available for appropriation for the further extension, improvement, or development of the state park system in accordance with the law governing that fund. If the fund of origin is not in existence, or if the original source for the acquisition was funds from the federal government for park purposes or a donation of real property, the net proceeds shall be deposited in the State Parks and Recreation Fund and shall be available for appropriation for the further extension, improvement, or development of the state park system. If the real property was originally acquired with moneys appropriated from the General Fund, the net proceeds shall be deposited in the unappropriated surplus of the General Fund.

This section does not apply to the sale of any real property in the state vehicular recreation areas.

§ 5006.45. Ocotillo Wells; Acquisition; Oil and Mineral Rights; Administration

- (a) Notwithstanding any other provision of law, the Director of General Services may acquire, on behalf of the state, a fee or lesser interest in such real and personal property located in the vicinity of Ocotillo Wells in San Diego County as is designated in writing to the Director of General Services by the Director of Parks and Recreation. If the property is leased, the lease shall be for such term and for such consideration as is mutually agreed upon by and between the Director of General Services and the lessor, and with the rental to be paid by the Department of Parks and Recreation.
- (b) Prior to making any acquisition:
 - (1) The Director of Parks and Recreation shall recommend to the State Park and Recreation Commission his designation of lands presently owned by the department to be included in the vehicular recreation area provided in subdivision (d), and no acquisition may be made unless and until the commission has concurred in that designation.

- (2) The director shall conduct at least one public hearing in San Diego County regarding the designation of lands presently owned by the department to be included in the vehicular recreation area. The director shall consider and be guided by testimony presented at the hearing.
- (c) Any interest acquired pursuant to this section shall be subject to the provisions of the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code). The proviso in Section 5019¹ shall not apply to any property acquired pursuant to this section that is subject to a reservation of oil and mineral rights if the Director of Parks and Recreation finds that the proposed prospecting or extraction of oil and minerals will not unreasonably interfere with the use of the property or adjoining property for recreation and if the grantor or lessor of the surface of the property, if other than the state or the holder of such a reservation, consents to the proposed prospecting or extraction.
- (d) Upon acquisition of the interest, the Director of General Services shall forthwith transfer the interest to the jurisdiction of the department, which shall administer the property as a unit of the state park system. The department shall carry out a program in that unit of development, maintenance, administration, and conservation of trails and areas for the recreational use of off-highway vehicles and for other related state park system purposes. Areas for the recreational use of off-highway vehicles shall be administered pursuant to Chapter 1.25 (commencing with Section 5090.01).
- (e) Any fees, rentals, or other returns collected by the department in its administration of the unit shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Fund.
- (f) The Director of Parks and Recreation shall review, and report annually to the State Park and Recreation Commission regarding, the development, maintenance, administration, and public usage of the vehicular recreation area and its success, effects on the environment, and appropriateness as a unit of the state park system.

§ 5006.47. Hungry Valley; Acquisition; Oil and Mineral Rights; Fair; Administration

- (a) Notwithstanding any other provision of law, the Director of General Services may acquire, on behalf of the state, a fee or lesser right or interest in such real and personal property in the Counties of Los Angeles and Ventura located in the vicinity

¹ PRC § 5019. When property is deeded to the State for park or beach purposes, oil and mineral rights in such property may be reserved in such deeds by the grantor; provided, that any prospecting or extracting of oil and minerals shall in no manner disturb the surface of such property or any improvements placed in or upon the property in pursuit of its use for recreation.

of Gorman and commonly known as Hungry Valley as is designated in writing by the Director of Parks and Recreation to the Director of General Services. If the property is leased, the lease shall be for such term and for such consideration as is mutually agreed upon by and between the Director of General Services and the lessor, and consented to by the Director of Parks and Recreation, and with rent to be paid by the Department of Parks and Recreation.

- (b) Any interest in property acquired pursuant to this section shall be subject to the provisions of the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code). The proviso in Section 5019 shall not apply to any property acquired pursuant to this section that is subject to a reservation of oil and mineral rights if the Director of Parks and Recreation finds that the proposed prospecting or extraction of oil and minerals will not unreasonably interfere with the use of the property or adjoining property for recreation and if the grantor or lessor of the surface of the property, if other than the state or the holder of such a reservation, consents to the proposed prospecting or extraction.
- (c) Upon acquisition of the property, the Director of General Services shall transfer jurisdiction over the property to the Department of Parks and Recreation, which shall administer the property as a unit of the state park system. The 51st District Agricultural Association may propose a name for the unit. The department shall carry out a program in that unit of planning, development, construction, maintenance, administration, and conservation of trails and areas for the recreational use of off-highway vehicles and for other related purposes of the state park system. Areas for the recreational use of off-highway vehicles shall be administered pursuant to Chapter 1.25 (commencing with Section 5090.01). The 51st District Agricultural Association may use the land and facilities within the unit for a fair oriented to off-highway vehicles for not more than 10 days each year if the Director of Parks and Recreation approves that use. The director may impose such terms and conditions upon such use as the director deems necessary and proper. The dates of that use shall be selected each year prior to January 1 and shall be subject to the approval of the Director of Parks and Recreation.
- (d) If the Director of General Services determines that it is necessary, in order to purchase the property, to offer to the person from whom it is being purchased an option to lease back all or part of the property, the director may make such an offer if the Director of Parks and Recreation determines at the time of the purchase that the property is not then needed for the purposes of the state park system and will not be needed for the term of the lease thus offered. At any time after the option expires, the Director of General Services may offer, under competitive bidding procedures, all or part of the property for lease if the Director of Parks and Recreation determines at that time it is not then needed for the purposes of the state park system and will not be needed for the term of the lease to be offered. Any lease entered into pursuant to this section shall be subject to Section 15862 of the Government Code. Notwithstanding the provisions of Section 15863 of the Government Code, all rent accruing from any

such lease after jurisdiction over the property is transferred to the Department of Parks and Recreation pursuant to subdivision (c) shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Fund and shall be available for expenditure only for the purposes specified in subdivision (b) of Section 5090.61.

- (e) Any fees or other returns collected by the department in its administration of the unit shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Fund and shall be available for expenditure only for the purposes specified in subdivision (b) of Section 5090.61.

§ 5006.48. Carnegie; Acquisition; Administration

- (a) Notwithstanding any other provision of law, the Director of General Services may acquire, on behalf of the state, a fee or lesser right or interest in real and personal property in the Counties of Alameda and San Joaquin located approximately 10 miles east of the City of Livermore and commonly known as the Carnegie Cycle Park. If the property is leased, the lease shall be for the term and for the consideration that is mutually agreed upon by and between the Director of General Services and the lessor, and consented to by the Director of Parks and Recreation, and with rent to be paid by the Department of Parks and Recreation.
- (b) Any interest in property acquired pursuant to this section shall be subject to the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code).
- (c) Upon acquisition of the property, the Director of General Services shall transfer jurisdiction over the property to the Department of Parks and Recreation, which shall administer the property as a unit of the state park system. The Department of Parks and Recreation shall carry out a program in that unit of planning, development, construction, maintenance, administration, and conservation of trails and areas for the recreational use of off-highway vehicles and for other related purposes of the state park system. Areas for the recreational use of off-highway vehicles shall be administered pursuant to Chapter 1.25 (commencing with Section 5090.01).
- (d) The Director of General Services may offer, under competitive bidding procedures, all or part of the property for lease if the Director of Parks and Recreation determines at that time it is not then needed for the purposes of the state park system and will not be needed for the term of the lease to be offered. Any lease entered into pursuant to this section shall be subject to Section 15862 of the Government Code. Notwithstanding Section 15863 of the Government Code, all rent accruing from that lease after jurisdiction over the property is transferred to the Department of Parks and Recreation pursuant to subdivision (c) shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Fund and shall be available for expenditure only for the purposes specified in subdivision (b) of Section 5090.61.

- (e) Any fees or other returns collected by the Department of Parks and Recreation in its administration of the unit referred to in subdivision (c) shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Fund and shall be available for expenditure only for the purposes specified in subdivision (b) of Section 5090.61.

§ 5010. Collection and Disposition of Fees, Rentals, and Other Returns; Transfer of Balances to State Parks and Recreation Fund

- (a) The department may collect fees, rents, and other returns for the use of any state park system area, the amounts to be determined by the department. The department may accept a credit card as a method of payment for fees collected through the department's reservation system. Any contract executed by the department with credit card issuers or draft purchasers shall be consistent with Section 6159 of the Government Code. Notwithstanding Title 1.3 (commencing with Section 1747) of Part 4 of Division 3 of the Civil Code, the department may impose a surcharge in an amount to cover the cost of providing the reservation service, including reimbursement for any fee or discount charged by the credit card issuer.
- (b) All revenues received by the department during each fiscal year shall be paid into the State Treasury to the credit of the State Parks and Recreation Fund, which is hereby created.
- (c) *Notwithstanding subdivision (b), all revenues received by the department from the state vehicular recreation areas shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Trust Fund, as required by Section 38225 of the Vehicle Code.*

[Subsections (d) through (i) were omitted as irrelevant to OHVs]

**CALIFORNIA
PUBLIC RESOURCES CODE**

[OHV Program Provisions]

DIVISION 5. Parks and Monuments

CHAPTER 1.25. Off-Highway Motor Vehicle Recreation

ARTICLE 1. General Provisions

§ 5090.01. Citation of Act

This chapter shall be known and may be cited as the Off-Highway Motor Vehicle Recreation Act of 2003.

§ 5090.02. Legislative Findings and Intent

(a) The Legislature finds all of the following:

- (1) Off-highway motor vehicles are enjoying an ever-increasing popularity in California.
- (2) Off-highway recreation includes both motorized recreation and motorized off-highway access to nonmotorized recreation activities.
- (3) The indiscriminate and uncontrolled use of those vehicles may have a deleterious impact on the environment, wildlife habitats, native wildlife, and native flora.

(b) The Legislature hereby declares that effectively managed areas and adequate facilities for the use of off-highway vehicles and conservation and enforcement are essential for ecologically balanced recreation.

(c) Accordingly, it is the intent of the Legislature that:

- (1) Existing off-highway motor vehicle recreational areas, facilities, and opportunities should be expanded and managed in a manner consistent with this chapter, in particular to maintain sustained long-term use.
- (2) New off-highway motor vehicle recreational areas, facilities, and opportunities should be provided and managed pursuant to this chapter in a manner that will sustain long-term use.
- (3) The department should support both motorized recreation and motorized off-highway access to nonmotorized recreation.

- (4) When areas or trails or portions thereof cannot be maintained to appropriate established standards for sustained long-term use, they should be closed to use and repaired, to prevent accelerated erosion. Those areas should remain closed until they can be managed within the soil conservation standard or should be closed and restored.
- (5) Prompt and effective implementation of the Off-Highway Motor Vehicle Recreation Program by the department and the Division of Off-Highway Motor Vehicle Recreation should have an equal priority among other programs in the department.
- (6) Off-highway motor vehicle recreation should be managed in accordance with this chapter through financial assistance to local governments and joint undertakings with agencies of the United States and with federally recognized Native American tribes.

§ 5090.03. Construction of Chapter

Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

§ 5090.04. “Commission”

“Commission” means the Off-Highway Motor Vehicle Recreation Commission.

§ 5090.05. “Division”

“Division” means the Division of Off-Highway Motor Vehicle Recreation of the Department of Parks and Recreation.

§ 5090.06. “Fund”

“Fund” means the Off-Highway Vehicle Trust Fund created by subdivision (c) of Section 38225 of the Vehicle Code.

§ 5090.07. “Off-Highway Motor Vehicle”

“Off-highway motor vehicle” means an off-highway motor vehicle as defined in Section 38006 of the Vehicle Code.

§ 5090.08. “Program”

“Program” means the Off-Highway Motor Vehicle Recreation Program.

§ 5090.09. “System”

“System” means the state vehicular recreation areas, the California Statewide Motorized Trail, areas and trails within the state park system, and areas supported by the grant program.

§ 5090.10. “Conservation”

“Conservation” means activities, practices, and programs that sustain soils, plants, wildlife, and their habitat in accordance with the standards adopted pursuant to Section 5090.35.

§ 5090.11. “Restoration”

“Restoration” means, upon closure of the unit or any portion thereof, the restoration of land to the contours, the plant communities, and the plant covers comparable to those on surrounding lands or at least those that existed prior to off-highway motor vehicle use.

§ 5090.12. “Grant Program”

“Grant program” means the local assistance grant program and the cooperative agreement program.

ARTICLE 2. Off-Highway Motor Vehicle Recreation Commission

§ 5090.15. Creation of Commission; Members; Appointment

- (a) There is in the department the Off-Highway Motor Vehicle Recreation Commission, consisting of nine members, five of whom shall be appointed by the Governor and subject to Senate confirmation, two of whom shall be appointed by the Senate Committee on Rules, and two of whom shall be appointed by the Speaker of the Assembly.
- (b) In order to be appointed to the commission, a nominee shall represent one or more of the following groups:
 - (1) Off-highway vehicle recreation interests.
 - (2) Biological or soil scientists.
 - (3) Groups or associations of predominantly rural landowners.
 - (4) Law enforcement.
 - (5) Environmental protection organizations.
 - (6) Nonmotorized recreation interests.

It is the intent of the Legislature that appointees to the commission represent all of the groups delineated in paragraphs (1) to (6), inclusive, to the extent possible.

- (c) Whenever a reference is made to the State Park and Recreation Commission pertaining to a duty, power, purpose, responsibility, or jurisdiction of the State Park and Recreation Commission with respect to the state vehicular recreation areas, as established by this chapter, it is a reference to, and means, the Off-Highway Motor Vehicle Recreation Commission.

§ 5090.16. Place of Residence of Members

In making appointments to the commission, the Governor, Senate Committee on Rules, and Speaker of the Assembly shall consider the places of residence of the members of the commission in order to ensure statewide representation.

§ 5090.17. Terms of Members

- (a) The terms of the members of the commission shall be four years.

(b) Appointments to the commission shall comply with the qualifications for membership specified in Sections 5090.15 and 5090.16.

§ 5090.18. Filling Vacancies

In case of any vacancy in the membership of the commission, the appointing authority of the vacating member shall appoint a successor member for the unexpired portion of the term.

§ 5090.19. Election of Chairperson

The members of the commission shall elect a chairperson from their number who shall serve as chairperson for one year and until his or her successor is elected.

§ 5090.20. Director as Secretary

The director is the secretary of the commission.

§ 5090.21. Salary; Reimbursement for Expenses; Legislators' Retirement System

Members of the commission may receive a salary for their services in an amount of fifty dollars (\$50) for each day, up to a maximum salary of one hundred dollars (\$100) per month. A member of the commission may also be reimbursed for the actual and necessary expenses which are incurred in the performance of the member's duties.

Notwithstanding any other provision of law, any member of the commission who is also a member of, and is entitled to receive the benefits from, the Legislators' Retirement System may elect to forego the compensation provided by this section and, if the compensation is foregone, the member shall not have his or her retirement benefits reduced and shall not be required to be reinstated into the retirement system.

§ 5090.22. Committees; Members; Jurisdiction

The chairperson of the commission may appoint committees composed of members of the commission and prescribe the jurisdiction of each.

§ 5090.24. Duties and Responsibilities; Program Report

The commission has the following particular duties and responsibilities:

(a) Be fully informed regarding all governmental activities affecting the program.

- (b) Meet at least four times per year at various locations throughout the state to receive comments on the implementation of the program. Establish an annual calendar of proposed meetings at the beginning of each calendar year. The meetings shall include a public meeting, before the beginning of each grant program cycle, to collect public input concerning the program, recommendations for program improvements, and specific project needs for the system.
- (c) Hold a public hearing to receive public comment regarding any proposed substantial acquisition or development project at a location in close geographic proximity to the project, unless a hearing consistent with federal law or regulation has already been held regarding the project.
- (d) Consider, upon the request of any owner or tenant, whose property is in the vicinity of any land in the system, any alleged adverse impacts occurring on that person's property from the operation of off-highway motor vehicles and recommend to the division suitable measures for the prevention of any adverse impact determined by the commission to be occurring, and suitable measures for the restoration of adversely impacted property.
- (e) Review and comment annually to the director on the proposed budget of expenditures from the fund.
- (f) Review all plans for new and expanded local and regional vehicle recreation areas that have applied for grant funds.
- (g) Review and comment on the strategic plan developed by the division pursuant to Section 5090.32.
- (h) Prepare and submit a program report to the Governor, the Assembly Water, Parks, and Wildlife Committee, the Senate Committee on Natural Resources and Water, and the Committee on Appropriations of each house on or before January 1, 2011, and every three years thereafter. The report shall be adopted by the commission after discussing the contents during two or more public meetings. The report shall address the status of the program and off-highway motor vehicle recreation, including all of the following:
 - (1) The results of the strategic planning process completed pursuant to subdivision (1) of Section 5090.32.
 - (2) The condition of natural and cultural resources of areas and trails receiving state off-highway motor vehicle funds and the resolution of conflicts of use in those areas and trails.
 - (3) The status and accomplishments of funds appropriated for restoration pursuant to paragraph (2) of subdivision (b) of Section 5090.50.

- (4) A summary of resource monitoring data compiled and restoration work completed.
- (5) Actions taken by the division and department since the last program report to discourage and decrease trespass of off-highway motor vehicles on private property.
- (6) Other relevant program-related environmental issues that have arisen since the last program report.

ARTICLE 3. DIVISION OF OFF-HIGHWAY MOTOR VEHICLE RECREATION

§ 5090.30. Creation of Division

There is in the department the Division of Off-Highway Motor Vehicle Recreation. Whenever any reference is made to the Office of Off-Highway Motor Vehicle Recreation, it shall be deemed to be a reference to, and to mean, the division. Section 507.1² does not apply to the division.

§ 5090.31. Appointment of Deputy Director; Responsibilities

The division shall be under the direction of a deputy director appointed by the director. The deputy director shall have no responsibilities other than directing and managing the division and the program.

§ 5090.32. Exclusive Functions of Division

The division has the following duties and responsibilities:

- (a) Planning, acquisition, development, conservation, and restoration of lands in the state vehicular recreation areas.
- (b) Direct management, maintenance, administration, and operation of lands in the state vehicular recreation areas.
- (c) Provide for law enforcement and appropriate public safety activities.
- (d) Implementation of all aspects of the program.
- (e) Ensure program compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000)) in state vehicular recreation areas.
- (f) Provide staff assistance to the commission.

²PRC § 507.1. For the purpose of administration, the director shall organize the department with the approval of the Governor in the manner he deems necessary to segregate and conduct the work of the department properly. With the approval of the Governor, the director may create such divisions and subdivisions as may be necessary and change or abolish them from time to time. The Division of Beaches and Parks and the Division of Recreation are hereby abolished and whenever any reference in any code or statute is made to the Division of Beaches and Parks or the Division of Recreation pertaining to a duty, power, purpose, responsibility or jurisdiction of the Division of Beaches and Parks or the Division of Recreation it shall be deemed to be a reference to and to mean the Department of Parks and Recreation.

- (g) Prepare and implement plans for lands in, or proposed to be included in, state vehicular recreation areas, including new state vehicular recreation areas. However, a plan shall not be prepared in any instance specified in subdivision (c) of Section 5002.2³
- (h) Conduct, or cause to be conducted, surveys, and prepare, or cause to be prepared, studies that are necessary or desirable for implementing the program.
- (i) Recruit and utilize volunteers to further the objectives of the program.
- (j) Prepare and coordinate safety and education programs.
- (k) Provide for the enforcement of Division 16.5 (commencing with Section 38000) of the Vehicle Code and other laws regulating the use or equipment of off-highway motor vehicles in all areas acquired, maintained, or operated by funds from the fund; however, the Department of the California Highway Patrol shall have responsibility for enforcement on highways.
- (l) Complete by January 1, 2009, a strategic planning process that will identify future off-highway motor vehicle recreational needs, including, but not limited to, potential off-highway motor vehicle parks in urban areas to properly direct vehicle operators away from illegal or environmentally sensitive areas. This strategic planning process shall take into consideration, at a minimum, environmental constraints, infrastructure requirements, demographic limitations, and local, state, and federal land use planning processes. The strategic plan shall be reviewed by the commission and updated periodically.

§ 5090.34. Publication and Sale of Guidebook; Contents

- (a) In cooperation with the commission, the division shall make available on the division's Internet Web site information regarding off-highway motor vehicle recreation opportunities, pertinent laws and regulations, and responsible use of the system. At a minimum, the Web site shall include the following:
 - (1) The text of laws and regulations relating to the program and operation of off-highway vehicles.

³PRC § 5002.2c) Notwithstanding the requirements of subdivision (a) [regarding mandatory preparation or revision of general plans], the department is not required to prepare a general plan for a unit that has no general plan or to revise an existing plan, as the case may be, if the only development contemplated by the department consists of the repair, replacement, or rehabilitation of an existing facility; the construction of a temporary facility, so long as such construction does not result in the permanent commitment of a resource of the unit; any undertaking necessary for the protection of public health or safety; or any emergency measure necessary for the immediate protection of natural or cultural resources; or any combination thereof at a single unit. Any development is subject to the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

- (2) A statewide map and regional maps of federal, state, and local off-highway vehicle recreation areas and facilities in the state, including links to maps of federal off-highway vehicle routes resulting from the route designation process.
 - (3) Information concerning safety, education, and trail etiquette.
 - (4) Information to prevent trespass, damage to public and private property, and damage to natural resources, including penalties and liability associated with trespass and damage caused.
- (b) The division shall create a guidebook of federal, state, and local off-highway vehicle recreation opportunities that includes contact information where current specific maps and information for each facility can be located. Contact information may include Web site addresses, telephone numbers, and addresses of offices where maps can be accessed. The guidebook shall also include the address of the Web site where the information in subdivision (a) may be found.
- (c) The division shall work with retailers of off-highway motor vehicles and off-highway recreation associations to distribute the guidebook developed under subdivision (b) and to increase awareness of the resources available on the division's Internet Web site.

§ 5090.35. Repair, Maintenance and Restoration of Areas, Trails and Lands; Soil Loss Standards and Habitat Protection Plans

- (a) The protection of public safety, the appropriate utilization of lands, and the conservation of land resources are of the highest priority in the management of the state vehicular recreation areas; and, accordingly, the division shall promptly repair and continuously maintain areas and trails, anticipate and prevent accelerated and unnatural erosion, and restore lands damaged by erosion to the extent possible.
- (b) (1) The division, in consultation with the United States Natural Resource Conservation Service, the United States Geological Survey, the United States Forest Service, the United States Bureau of Land Management, and the California Department of Conservation shall update the 1991 Soil Conservation Guidelines and Standards to establish a generic and measurable soil conservation standard by March 1, 2006, at least sufficient to allow restoration of off-highway motor vehicle areas and trails. The 1991 Soil Conservation Guidelines and Standards shall remain in effect until they are updated pursuant to this subdivision.
- (2) Upon a determination that the soil conservation standards and habitat protection plans are not being met in any portion of any state vehicular recreation area the division shall temporarily close the noncompliant portion to repair and prevent accelerated erosion, until the soil conservation standards are met.

- (3) Upon a determination that the soil conservation standards cannot be met in any portion of any state vehicular recreation area the division shall close and restore the noncompliant portion pursuant to Section 5090.11.
- (c)
- (1) The division shall make an inventory of wildlife populations and their habitats in each state vehicular recreation area and shall prepare a wildlife habitat protection program to sustain a viable species composition specific to each state vehicular recreation area by July 1, 1989.
 - (2) If the division determines that the habitat protection program is not being met in any portion of any state vehicular recreation area, the division shall close the noncompliant portion temporarily until the habitat protection program is met.
 - (3) If the division determines that the habitat protection program cannot be met in any portion of any state vehicular recreation area, the division shall close and restore that noncompliant portion pursuant to Section 5090.11.
- (d) The division shall monitor the condition of soils and wildlife habitat in each state vehicular recreation area each year in order to determine whether the soil conservation standards and habitat protection programs are being met.
- (e) The division shall not fund trail construction unless the trail is capable of complying with the conservation specifications prescribed in subdivisions (b) and (c). The division shall not fund trail construction where conservation is not feasible.
- (f) The division shall monitor and protect cultural and archaeological resources within the state vehicular recreation areas.

§ 5090.36. Contracts and Agreements

The division may enter into contracts with concessionaires and grants or cooperative agreements with other public agencies, pursuant to laws and procedures specified in this division, for the care and maintenance of lands in the system, including law enforcement services with public agencies having law enforcement authority.

§ 5090.37. Prohibition Against Exercise of Eminent Domain

Eminent domain shall not be exercised to acquire any interest in property for a state vehicular recreation area, the California Statewide Motorized Trail, or any grant program area or trail by the division or any public agency that has entered into a grant or cooperative agreement with the division.

§ 5090.38. Liability of Property Owners in Vicinity of Lands in System

No owner or other person having legal control of property in the vicinity of any lands in the system is liable for any actions of any type resulting from, or caused by, the user of an off-highway motor vehicle who is trespassing on property outside the system; and no owner or other person having legal control of property in the vicinity of any lands in the system is liable for any one's actions of any type commenced on, or taking place within, the boundaries of lands in the system.

ARTICLE 4. State Vehicular Recreation Areas

§ 5090.41. Hollister Hills State Vehicular Recreation Area; Management

The following lands within the Hollister Hills State Vehicular [Recreation] Area shall be managed, as follows:

- (a) The division shall designate and set aside 280 acres for nature study, which shall be closed to the operation of off-highway motor vehicles. The division shall, in carrying out this subdivision, protect the natural and cultural values of the designated lands by taking appropriate measures, which may include the erection of physical barriers to off-highway vehicle use.
- (b) The division shall identify approximately 395 acres as a "Buffer Zone" on the Record of Survey filed by the State of California with the County Recorder of SanBenito County, California, on April 2, 1990, in the Book of Maps, Number 10, Page Number 79, plus the three southernmost areas, consisting of approximately 196 acres identified on Figure I-2, Page 5, Appendix, Environmental Impact Report for Acquisition of Additional Land at Hollister Hills SVRA, State Clearinghouse Number 88051716, which shall be closed to the operation of off-highway motor vehicles.

§ 5090.43. Criteria for Recreation Areas; Designation of Sensitive Areas

- (a) State vehicular recreation areas shall be established on lands where there are quality recreational opportunities for off-highway motor vehicles and in accordance with the requirements of Section 5090.35. Areas shall be developed, managed, and operated for the purpose of making the fullest public use of the outdoor recreational opportunities present. The natural and cultural elements of the environment may be managed or modified to enhance the recreational experience consistent with the requirements of Section 5090.35.
- (b) Lands for state vehicular recreation areas shall be selected for acquisition so as to minimize the need for establishing sensitive areas.
- (c) After January 1, 1988, no new cultural or natural preserves or state wildernesses shall be established within state vehicular recreation areas. To protect natural and cultural values, sensitive areas within state vehicular recreation areas may be designated by the division if the Off-Highway Motor Vehicle Recreation Commission holds a public hearing and makes a recommendation therefore. These sensitive areas shall be

managed by the division in accordance with Sections 5019.71⁴ and 5019.74⁵ which define the purpose and management of natural and cultural preserves.

If off-highway motor vehicle use results in damage to any natural or cultural values, appropriate measures shall be taken to protect these lands from any further damage. These measures may include the erection of physical barriers and shall include the restoration of natural resources and the repair of damage to cultural resources.

⁴PRC § 5019.71. Natural preserves consist of distinct nonmarine areas of outstanding natural or scientific significance established within the boundaries of other state park system units. The purpose of natural preserves shall be to preserve such features as rare or endangered plant and animal species and their supporting ecosystems, representative examples of plant or animal communities existing in California prior to the impact of civilization, geological features illustrative of geological processes, significant fossil occurrences or geological features of cultural or economic interest, or topographic features illustrative of representative or unique biogeographical patterns. Areas set aside as natural preserves shall be of sufficient size to allow, where possible, the natural dynamics of ecological interaction to continue without interference, and to provide, in all cases, a practicable management unit. Habitat manipulation shall be permitted only in those areas found by scientific analysis to require manipulation to preserve the species or associations that constitute the basis for the establishment of the natural preserve.

⁵PRC § 5019.74. Cultural preserves consist of distinct nonmarine areas of outstanding cultural interest established within the boundaries of other state park system units for the purpose of protecting such features as sites, buildings, or zones which represent significant places or events in the flow of human experience in California. Areas set aside as cultural preserves shall be large enough to provide for the effective protection of the prime cultural resources from potentially damaging influences, and to permit the effective management and interpretation of the resources. Within cultural preserves, complete integrity of the cultural resources shall be sought, and no structures or improvements that conflict with that integrity shall be permitted.

ARTICLE 4.5. California Statewide Motorized Trail

§ 5090.44. California Statewide Motorized Trail

The division shall assist in the designation of corridors for a California Statewide Motorized Trail. The California Statewide Motorized Trail shall consist of corridors that are designated and maintained for recreational travel by off-highway motor vehicles, as defined in Section 38006 of the Vehicle Code, and that are designated for off-highway motor vehicle travel by the owner of, or other person or public entity having control over, the property traversed by the corridor. Portions of the California Statewide Motorized Trail may include lands designated and maintained as trailheads. The California Statewide Motorized Trail shall be selected and managed in accordance with this chapter. Trails designated pursuant to this section may be known as the California Statewide Motorized Trail.

ARTICLE 5. Local Assistance Grants, Grants to Nonprofit Organizations and Educational Institutions, and Cooperative Agreements with Federal Agencies

§ 5090.50. Grants and Cooperative Agreements

- (a) The division shall develop and implement a grant and cooperative agreement program to support the planning, acquisition, development, maintenance, administration, operation, enforcement, restoration, and conservation of trails, trailheads, areas, and other facilities associated with the use of off-highway motor vehicles, and programs involving off-highway motor vehicle safety or education.
- (b) When appropriated by the Legislature for grants and cooperative agreements, available funds shall be awarded in accordance with the following categories:
 - (1) Operation and maintenance.
 - (A) Fifty percent of the funds appropriated by the Legislature pursuant to subdivision (a) of Section 5090.61 shall be expended solely for grants and cooperative agreements for the acquisition, maintenance, operation, planning, development, or conservation of trails and facilities associated with the use of off-highway motor vehicles for recreation or motorized access to nonmotorized recreation.
 - (B) Guidelines developed to implement this paragraph, pursuant to subdivision (d), shall at a minimum:
 - (i) Give preference to applications that sustain existing off-highway motor vehicle recreation opportunities.
 - (ii) Give additional consideration to applications that improve facilities that provide motorized access to nonmotorized recreation opportunities.
 - (C) Applications that would affect lands identified as inventoried roadless areas by the Forest Service of the United States Department of Agriculture are eligible for cooperative agreements under paragraph (1) if the application is for a project that does any of the following:
 - (i) Realigns a forest system road or trail to prevent irreparable resource damage that arises from the design, location, use, or deterioration of a classified route and that cannot be mitigated by route maintenance.
 - (ii) Reconstructs a national forest system road or trail to implement a route safety improvement project on a classified route determined to be hazardous on the basis of accident experience or accident potential on that route.

(iii) Maintains a road or trail that is included in the National Forest Road and Trail System on or before January 1, 2009.

(D) Any unencumbered funds under this paragraph shall only be used in future grant cycles for purposes consistent with this paragraph.

(2) Restoration.

(A) Twenty-five percent of the funds appropriated by the Legislature pursuant to subdivision (a) of Section 5090.61 shall be expended solely for grants and cooperative agreements for projects that provide ecological restoration or repair to habitat damaged by either legal or illegal off-highway motor vehicle use.

(B) The division shall develop and implement, in consultation with the Wildlife Conservation Board, a competitive grant and cooperative agreement program which shall be administered in accordance with this paragraph.

(C) Funds identified in this paragraph shall be available for grants and cooperative agreements for projects that provide ecological restoration or repair to habitat damaged by both legal and illegal off-highway motor vehicle use.

(D) Eligible projects include:

(i) Removal of a road or trail or restoration of an area associated with the rerouting and subsequent closure of a designated road or trail.

(ii) Removal of roads or trails and the restoration of damaged habitats in any area that is not designated for motorized vehicle use.

(iii) The removal of closed roads or trails, or a portion of a closed road or trail, that will help to prevent off-highway motor vehicle access to closed areas.

(iv) Scientific and cultural studies regarding the impact of off-highway motor vehicle recreation not otherwise required by state or federal laws.

(v) Planning to identify appropriate restoration techniques, strategies, and project implementation, including planning associated with environmental review.

(vi) Restoration projects that generally improve and restore the function of natural resource systems damaged by motorized activities.

- (E) Eligible applicants include local, state, and federal entities, Native American tribes, educational institutions, and eligible nonprofit organizations.
 - (F) Guidelines developed to implement this paragraph shall at a minimum do all of the following:
 - (i) Give additional consideration to applications for projects that will restore areas that have the potential for the most significant environmental damage.
 - (ii) Guarantee that no grant will be used for the development or maintenance of trails for motorized use.
 - (G) Any unencumbered funds under this paragraph shall be used only in future grant cycles for purposes consistent with this paragraph.
- (3) Law enforcement.
- (A) Twenty percent of the funds appropriated by the Legislature pursuant to subdivision (a) of Section 5090.61 shall be available for law enforcement grants and cooperative agreements and shall be allocated to local and federal law enforcement entities for personnel and related equipment. The amount of the grant or cooperative agreement shall be proportionate to the off-highway motor vehicle enforcement needs under each entity's jurisdiction.
 - (B) The division shall develop a method to determine the law enforcement needs for each applicant. Forty percent of law enforcement grants and cooperative agreements shall be given to local law enforcement entities, 30 percent to units of the United States Bureau of Land Management, and 30 percent to units of the United States Forest Service.
 - (C) The division shall develop eligibility guidelines for law enforcement projects. The guidelines, at a minimum, shall require the applicant to do all of the following:
 - (i) Specify formal and informal cooperation with other appropriate law enforcement entities, including any applicable federal entities.
 - (ii) Establish a policy on how violations of off-highway motor vehicle laws and regulations will be enforced on federal land, if the applicant is a local law enforcement entity.
 - (iii) Identify areas with high priority law enforcement needs because of public safety, cultural resources, and sensitive environmental habitats, including wilderness areas and areas of critical environmental concern.

- (iv) Explain whether the applicant is recovering a portion of law enforcement costs directly associated with privately sponsored events where sponsors have obtained a local permit.
 - (v) Establish a public education program that includes information regarding safety programs offered in the area and how to report off-highway motor vehicle operation violations.
 - (vi) Specify how personnel is trained and educated regarding off-highway motor vehicle safety and resource and cultural protection.
- (D) Notwithstanding subdivision (h), law enforcement entities that receive funds allocated pursuant to this paragraph shall be subject to a financial and performance audit at least once every five years. The audits may be conducted in a random order. As part of the audit, the department shall consider whether the law enforcement entity has spent the grant money in accordance with its application.
- (4) Education and safety. Five percent of the funds appropriated by the Legislature pursuant to subdivision (a) of Section 5090.61 shall be available for grants and cooperative agreements that either provide comprehensive education that teaches off-highway motor vehicle safety, environmental responsibility, and respect for private property, or provide safety programs associated with off-highway motor vehicle recreation.
- (c) Eligible grant and cooperative agreement applicants include:
- (1) Cities, counties, and districts that have approval to apply for grant funds, in the form of a resolution from their governing body.
 - (2) State agencies for projects under paragraph (2) of subdivision (b).
 - (3) Agencies of the United States.
 - (4) Federally recognized Native American tribes.
 - (5) Education and nonprofit organizations for eligible projects described in subdivision (f).
- (d) Guidelines developed to implement this program shall at a minimum do all of the following:
- (1) Distribute grants and cooperative agreements on a competitive basis, except for law enforcement grants allocated in accordance with paragraph (3) of subdivision (b).
 - (2) Be developed with public input, including focus groups.

- (3) Require applications to be in accordance with local or federal plans and the strategic plan for off-highway motor vehicle recreation prepared by the division.
 - (4) Require grant applicants to comply with the California Environmental Quality Act (Division 13 (commencing with Section 21000)). Applicants for cooperative agreements shall complete environmental review procedures that are at least comparable to those of the California Environmental Quality Act (Division 13 (commencing with Section 21000)).
 - (5) Require the applicant to agree to provide matching funds or the equivalent value of services or material used, in an amount not less than 25 percent of the total project cost.
 - (6) Require the applicant, if it is a city or county, to disclose how fees collected pursuant to Section 38230 of the Vehicle Code are being used and whether the use of these fees complements the applicant's project.
 - (7) Fund all eligible applications to the extent feasible.
- (e) All grants and cooperative agreements involving ground disturbing activities shall be subject to the uniform application of soil and wildlife habitat protection standards specified in Section 5090.53.
- (f) Grants may be awarded to educational institutions and nonprofit organizations. Eligible projects shall be limited to scientific research, natural resource conservation activities, trail and facility maintenance, restoration, and programs involving off-highway motor vehicle safety or education. If the application for grant funds involves activities on any public lands, all of the following shall apply:
- (1) The applicant shall include a work plan for the project.
 - (2) The applicant shall provide written permission from the appropriate land manager to conduct a project, including a description of how the project fits with the land management goals of the area.
 - (3) The applicant shall provide matching funds or the equivalent value of volunteer services or material used, in an amount not less than 25 percent of the total project cost.
 - (4) The applicant shall be fiscally responsible for adhering to the terms and conditions of the grants.
- (g) The deputy director of the division shall not participate in the scoring of grants or cooperative agreements.
- (h) The department shall conduct an annual financial audit of the grants and cooperative agreements program. During each year, the department shall also conduct, or cause

to be conducted, an audit of the performance of a minimum of 20 percent of grant and cooperative agreement recipients.

- (i) The division shall establish an administrative appeal process as part of the grants and cooperative agreements program. At a minimum, this process shall do all of the following:
 - (1) Give applicants the right to appeal on the following grounds:
 - (A) The division failed to follow regulations established for the award of grants and cooperative agreements.
 - (B) The division lacked sufficient factual evidence to support or deny the award of a grant or cooperative agreement.
 - (2) Require the applicant to first appeal to the deputy director of the division. If that appeal is denied, the applicant may then appeal to the director of the division, or the director's appointee.
 - (3) Require applicants to file their first appeal within 30 calendar days following the notice of award or denial of a grant or cooperative agreement. Notice of the decision or the rejection of the appeal shall be issued within 60 days following the filing of an appeal.
 - (4) Require applicants to exhaust these appeal rights prior to seeking other legal remedies through the courts.
- (j) A grant shall not be made, nor a cooperative agreement entered into, pursuant to this section without the approval of the director.

§ 5090.53. Conditions for Grants or Encumbrance of Funds

No funds may be granted or expended pursuant to Section 5090.50, unless all of the following conditions are met:

- (a) If the project involves a ground disturbing activity, the recipient has completed wildlife habitat and soil surveys and has prepared a wildlife habitat protection program to sustain a viable species composition for the project area.
- (b) If the project involves a ground disturbing activity, the recipient agrees to monitor the condition of soils and wildlife in the project area each year in order to determine whether the soil conservation standards adopted pursuant to Section 5090.35 and the wildlife habitat protection program prepared pursuant to subdivision (a) are being met.

- (c) If the project involves a ground disturbing activity, the recipient agrees that, whenever the soil conservation standards adopted pursuant to Section 5090.35 are not being met in any portion of a project area, the recipient shall close temporarily that noncompliant portion, to repair and prevent accelerated erosion, until the same soil conservation standards adopted pursuant to Section 5090.35 are met.
- (d) If the project involves a ground disturbing activity, the recipient agrees that, whenever the wildlife habitat protection program prepared pursuant to subdivision (a) is not being met in any portion of a project area, the recipient shall close temporarily that noncompliant portion until the same wildlife habitat protection program prepared pursuant to subdivision (a) is met.
- (e) The recipient agrees to enforce the registration of off-highway motor vehicles and the other provisions of Division 16.5 (commencing with Section 38000) of the Vehicle Code and to enforce the other applicable laws regarding the operation of off-highway motor vehicles.
- (f) The recipient agrees to cooperate with appropriate law enforcement entities to provide proper law enforcement at and around the facility.
- (g) The recipient has identified the potential for the facility to reduce illegal and unauthorized off-highway motor vehicle recreation activities in the surrounding areas.
- (h) The recipient has included in its application a description of how it is meeting the operations and maintenance needs of any existing off-highway motor vehicle recreation facility under its jurisdiction.

ARTICLE 6. Fiscal Management

§ 5090.60. Sources of Moneys in the OHV Trust Fund

The fund consists of deposits from the following sources:

- (a) Revenues transferred from the Motor Vehicle Fuel Account in the Transportation Tax Fund.
- (b) Fees paid pursuant to subdivision (b) of Section 38225 of the Vehicle Code.
- (c) Unexpended service fees.
- (d) Fees and other proceeds collected at state vehicular recreation areas, as provided in subdivision (c) of Section 5010.
- (e) Reimbursements.
- (f) Revenues and income from any other source required by law to be deposited in the fund.

§ 5090.61. Appropriation and Allocation of Moneys in Fund

Moneys in the fund shall be available, upon appropriation by the Legislature, as follows:

- (a) An amount, not to exceed 50 percent of the annual revenues to the fund, shall be available for grants and cooperative agreements pursuant to Article 5 (commencing with Section 5090.50).
- (b) (1) The remainder of the annual revenues to the fund shall be available for the support of the division in implementing the off-highway motor vehicle recreation program and for the planning, acquisition, development, construction, maintenance, administration, operation, restoration, and conservation of lands in the system.
- (2) As used in this subdivision, “support of the division” includes functions performed outside of the division by others on behalf of the division, including costs incurred on behalf of the division for personnel management and training, accounting, and fiscal analysis, records, purchasing, public information activities, consultation of professional scientists and reclamation experts for the purposes of Section 5090.35, and legal services. “Support of the division” does not include costs incurred by, or attributable to, the director or the director's immediate staff, or their salaries.

§ 5090.65. Use of Money in Fund for Repair of Boundary Fences

Money in the fund shall be used to pay for the repair of any boundary fence that segregates off-highway vehicle use from adjoining landowners and is adjacent to an off-highway vehicle site that is funded by the fund, when the fence has become broken or damaged by off-highway vehicle users.

ARTICLE 7. Termination

§ 5090.70. Repeal of Chapter

This chapter shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

**CALIFORNIA
PUBLIC RESOURCES CODE**

DIVISION 5. Parks and Monuments

CHAPTER 1.27. California SNO-PARK Permit Program

ARTICLE 1. General Provisions

§ 5091.01. Legislative Findings

- (a) The Legislature finds that as the popularity of winter recreation has steadily grown, so too has the problem of insufficient parking areas for participants.
- (b) The Legislature hereby declares that adequate parking facilities for winter recreation are essential to ensure safety and well-being of the states' winter recreationists.
- (c) Accordingly, in furtherance of the California Outdoor Recreation Plan, it is the intent of the Legislature to establish the California SNO-PARK Permit Program, whereby winter recreationists may purchase a windshield sticker that will allow them to park in any of the roadside parking areas to be established and plowed for this purpose.

§ 5091.02. Definitions

Unless the context otherwise requires, the definitions in this section govern the construction of this chapter.

- (a) "Authorized vendor" means a retail commercial enterprise, authorized by the department to sell SNO-PARK permits established by this chapter.
- (b) "Department" means the Department of Parks and Recreation.
- (c) "Fund" means the Winter Recreation Fund.
- (d) "Designated parking area" means an area located, constructed, maintained, and signed pursuant to this chapter.
- (e) "Winter recreation" means any recreational activity principally dependent upon snow-covered ground, including, but not limited to, cross-country skiing, snowshoeing, sledding, ice fishing, snow camping, dog-sledding, and snowmobiling.

ARTICLE 2. Designation of Parking Areas

§ 5091.10. Public Hearings; Designation; Snow Removal

- (a) The State Park and Recreation Commission shall hold at least two public hearings, one in the northern portion of the state and one in the southern portion of the state, to seek proposals from individuals, winter recreation user groups, the department, and other public agencies for parking areas to be designated under this chapter.
- (b) The director shall appoint a committee, which shall be known as the “Winter Recreation Committee,” to advise the director on the location of designated parking areas.
- (c) The department shall, after consultation with the State Park and Recreation Commission, the Department of Transportation, the Department of the California Highway Patrol, the appropriate boards of supervisors, and any local public or private persons owning lands adjacent to each site, designate winter recreation parking locations throughout the state and include the sites as an element of the California outdoor recreation plan. The department may enter into long-range agreements for the utilization of private and public lands for the programs. The location and design of any proposed site adjacent to, or directly impacting on, a state highway shall be reviewed and approved by the Department of Transportation. The location and design of any proposed site adjacent to, or directly impacting on, a county road shall be reviewed and approved by the appropriate board of supervisors.
- (d) Using funds appropriated from the Winter Recreation Fund and allocated pursuant to paragraph (1) of subdivision (b) of Section 5091.25, the Department of Transportation shall provide for the removal of snow accumulating on designated parking areas according to priorities established by the Department of Transportation in consultation with the department. The removal of snow from the roadway of state highways shall always take precedence over the removal of snow from designated parking areas.
- (e) Using funds appropriated from the Winter Recreation Fund and allocated pursuant to paragraph (3) of subdivision (b) of Section 5091.25, the department may make grants to counties for the removal of snow accumulating on designated parking areas. The department may contract with the appropriate public and private entities for snow removal, provision of sanitary facilities, signage, trash removal, parking lot repairs, and other services. In no event shall the removal of snow on designated parking areas become a county responsibility, except by agreement with the appropriate board of supervisors.

ARTICLE 3. Sno-Park Permit Program

§ 5091.15. Permit Requirement; Exemption; Fee; Violations

- (a) Except as provided in this section, no person shall, from November 1 of any year to May 30 of the next year or for a shorter time as determined by the department, park a vehicle in a designated parking area unless the vehicle displays a parking permit issued by the department. Overnight camping in a vehicle parked in a designated parking area may be authorized by the department when it determines that the use is for a recreational activity, is safe and prudent, and is of limited duration.
- (b) No parking permit shall be required under this section for a vehicle owned and operated by the United States, another state or political subdivision thereof, or by this state or by a city, county, district, or political subdivision thereof.
- (c) The fee for the issuance of a parking permit under this chapter shall be determined by the department. The department shall hold at least one public hearing and notify the Legislature at least 30 days prior to any proposal to change the fees.
- (d) A person who violates this section is guilty of an infraction punishable by a fine of seventy-five dollars (\$75). Unless the peace officer issuing the citation witnesses the parking of the vehicle, a rebuttable presumption exists that a vehicle parked in violation of this section was parked by the registered owner of the vehicle. If the parking of the vehicle is witnessed by the peace officer, the operator of the vehicle is in violation of this section.
- (e) The department may negotiate reciprocity agreements with other states having similar programs if the agreements are in the best interests of the California SNO-PARK program.
- (f) The department may contract with appropriate agencies for law enforcement, including, but not limited to, the Department of the California Highway Patrol, the county sheriffs, and the United States Department of Agriculture Forest Service. Enforcement activities may be funded with moneys appropriated from the Winter Recreation Fund.

ARTICLE 4. Permits

§ 5091.20. Sale and Distribution; Vendors

- (a) The department shall print the permits required by this chapter and shall supervise the sale of the permits throughout the state.
- (b) The department shall either distribute and sell the permits directly or contract with vendors according to rules and regulations adopted by the department. The

authorized vendors shall be bonded in accordance with the rules and regulations and shall receive a stipulated commission for each permit sold.

- (c) In situations where the department elects to contract with a vendor pursuant to subdivision (b), the department shall provide the permits to the vendor at no cost. The vendor may deduct his or her commission from the proceeds acquired from permit sales prior to remitting those proceeds to the department.

ARTICLE 5. Revenues

§ 5091.25. Winter Recreation Fund; Deposit of Permit Proceeds; Allocations

- (a) Proceeds from the sale of SNO-PARK parking permits shall be paid to the State Treasury to the credit of the Winter Recreation Fund, which is hereby created.
- (b) The moneys in the Winter Recreation Fund shall be allocated, when appropriated, as follows:
 - (1) An amount equal to the actual and necessary costs incurred in the removal of snow from designated parking areas shall be paid to the Department of Transportation.
 - (2) The balance of the funds shall be expended for the acquisition, lease, development, and maintenance of additional designated parking areas, for sanitation facilities, trailhead markings, and other facilities designed to promote the safety and well-being of persons engaged in winter recreation, and for grants to counties for the actual and necessary costs incurred in the removal of snow from designated parking areas, and to inform and educate the public about the program.

§ 5091.26. Exercise of Eminent Domain Prohibited

Eminent domain shall not be exercised to acquire any interest in property for a designated parking area.

§ 5091.27. Rules and Regulations

The department may adopt rules and regulations necessary to implement and enforce this chapter.

CALIFORNIA REVENUE AND TAXATION CODE

[OHV Program Provisions]

DIVISION 2. Other Taxes

PART 2, CHAPTER 7. Overpayments and Refunds

ARTICLE 1. Refunds on Certain Sales

§ 7326. Motor Vehicle Fuel Defined

“Motor vehicle fuel” means gasoline and aviation gasoline. It does not include jet fuel, diesel fuel, kerosene, liquefied petroleum gas, natural gas in liquid or gaseous form, alcohol, or racing fuel.

§ 8101. Refund of Fuel Taxes Attributable to Recreational Use Off-Highway

The following persons who have paid a tax for motor vehicle fuel, either directly or to the vendor from whom it was purchased, or indirectly by the adding of the amount of the tax to the price of the fuel, shall, except as otherwise provided in this part, be reimbursed and repaid the amount of the tax:

- (a) Any person who buys and uses the motor vehicle fuel for purposes other than operating motor vehicles upon the public highways of the state, except vehicles subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code, which are used for recreational purposes or are rented or leased for recreational purposes, and, on and after July 1, 1974, except motor vehicles subject to registration under Division 3 (commencing with Section 4000) of the Vehicle Code while engaged in off-highway recreational use.
- (b) Any person who exports the motor vehicle fuel for use outside of this state. Motor vehicle fuel carried from this state in the fuel tank of a motor vehicle or aircraft is not deemed to be exported from this state unless the motor vehicle fuel becomes subject to tax as an “import” under the laws of the destination state.

[Subsections (c) through (g) were omitted as irrelevant to OHVs]

PART 2, CHAPTER 10. Distribution of Proceeds

§ 8351. Deposit in Motor Vehicle Fuel Fund: Continuation as Motor Vehicle Fuel Account in Transportation Tax Fund

The Controller shall transmit all money received by him or her in payment of taxes, interest, and penalties due under this part to the State Treasurer who shall deposit it in the State Treasury and credit it to the Motor Vehicle Fuel Fund, which is continued in existence as the Motor Vehicle Fuel Account in the Transportation Tax Fund, which fund is hereby created. All fees paid and accepted for issuance or reinstatement of licenses under this part shall be deposited by the board in the State Treasury to the credit of the same account.

Any reference in any law or regulation to the Motor Vehicle Fuel Fund shall be deemed to refer to the Motor Vehicle Fuel Account in the Transportation Tax Fund.

§ 8352. Appropriations from Fund

Subject to the provisions of any budget bill heretofore or hereafter enacted, the money deposited to the credit of the Motor Vehicle Fuel Account is hereby appropriated for expenditure, allocation, or transfer as provided in this chapter.

§ 8352.1. Authorized Expenditures

The money deposited to the credit of the Motor Vehicle Fuel Account may be expended for the following purposes:

- (a) To pay the refunds authorized in this part, including refunds due on account of judgments for the return of taxes illegally collected.
- (b) To the Controller, to carry out any duties imposed upon him or her by this part.
- (c) To the board, to carry out any duties imposed upon it by this part.
- (d) To pay the pro rata share of the overhead and general administrative expense of the Controller and the board attributable to duties imposed by this part. The pro rata share is payable upon presentation of a claim against any appropriation from the Motor Vehicle Fuel Account for the support of the Controller or the board, as the case may be.

§ 8352.2. Transfers to the State Transportation Fund

Subject to the provisions of this chapter, the money deposited to the credit of the Motor Vehicle Fuel Account shall be transferred to the State Transportation Fund, which is hereby created, as provided in this chapter.

§ 8352.6. Fuel Tax Transfers to the OHV Trust Fund

- (a) Subject to Section 8352.1, on the first day of every month, there shall be transferred from money deposited to the credit of the Motor Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund created by Section 38225 of the Vehicle Code an amount attributable to taxes imposed upon distributions of motor vehicle fuel used in the operation of motor vehicles off-highway and for which a refund has not been claimed. Transfers made pursuant to this section shall be made prior to transfers pursuant to Section 8352.2.
- (b) The amount transferred pursuant to subdivision (a), as a percent of the Motor Vehicle Fuel Account, shall be equal to the percent transferred in the 2006-07 fiscal year. Every five years, starting in the 2013-14 fiscal year, the percent transferred may be adjusted by the Department of Transportation in cooperation with the Department of Parks and Recreation and the Department of Motor Vehicles. Adjustments shall be based on, but not limited to, the changes in the following factors since the 2006-07 fiscal year or the last adjustment, whichever is more recent:
 - (1) The number of vehicles registered as off-highway motor vehicles as required by Division 16.5 (commencing with Section 38000) of the Vehicle Code.
 - (2) The number of registered street-legal vehicles that are anticipated to be used off-highway, including four-wheel drive vehicles, all-wheel drive vehicles, and dual-sport motorcycles.
 - (3) Attendance at the state vehicular recreation areas.
 - (4) Off-highway recreation use on federal lands as indicated by the United States Forest Service's National Visitor Use Monitoring and the United States Bureau of Land Management's Recreation Management Information System.
- (c) It is the intent of the Legislature that transfers from the Motor Vehicle Fuel Account to the Off-Highway Motorized Vehicle Trust Fund should reflect the full range of motorized vehicle use off-highway for both motorized recreation and motorized off-road access to other recreation opportunities. Therefore, the Legislature finds that the fuel tax baseline established in subdivision (b), attributable to off-highway estimates of use as of the 2006-07 fiscal year, accounts for the three categories of vehicles that have been found over the years to be users of fuel for off-highway motorized recreation or motorized access to nonmotorized recreational pursuits. These three

categories are registered off-highway motorized vehicles, registered street legal motorized vehicles used off-highway, and unregistered off-highway motorized vehicles.

- (d) It is the intent of the Legislature that the off-highway motor vehicle recreational use to be determined by the Department of Transportation pursuant to paragraph (2) of subdivision (b), be that usage by vehicles subject to registration under Division 3 (commencing with Section 4000) of the Vehicle Code, for recreation or the pursuit of recreation on surfaces where the use of vehicles registered under Division 16.5 (commencing with Section 38000) of the Vehicle Code may occur.

§ 8352.8. Conservation and Enforcement Services Account

- (a) The Conservation and Enforcement Services Account is hereby established as an account in the Off-Highway Vehicle Trust Fund created by Section 38225 of the Vehicle Code.
- (b) Funds in the Conservation and Enforcement Services Account shall be allocated to the Division of Off-Highway Motor Vehicle Recreation of the Department of Parks and Recreation for expenditure, upon appropriation by the Legislature, for the following purposes:
 - (1) Up to the 40 percent of the funds, for cooperative agreements or challenge cost-sharing agreements with the United States Forest Service and the United States Bureau of Land Management, to complete necessary route designation planning work and to implement route planning decisions.
 - (2) Up to one million one hundred thousand dollars (\$1,100,000) for each grant cycle, to increase the amount of funds available for restoration grants in the program pursuant to paragraph (2) of subdivision (b) of Section 5090.50 of the Public Resources Code.

CALIFORNIA VEHICLE CODE

[Miscellaneous Provisions Related to OHVs with Provisions Affecting the OHV Program Highlighted in *Italic Text*]

DIVISION 1. Words and Phrases Defined

§ 111. All-Terrain Vehicle

“All-terrain vehicle” means a motor vehicle subject to subdivision (a) of Section 38010 which is all of the following:

- (a) Designed for operation off of the highway by an operator with no more than one passenger.
- (b) Fifty inches or less in width.
- (c) Nine hundred pounds or less unladen weight.
- (d) Suspended on three or more low-pressure tires.
- (e) Has a single seat designed to be straddled by the operator, or a single seat designed to be straddled by the operator and a seat for no more than one passenger.
- (f) Has handlebars for steering control.

§ 111.3. All-Terrain Vehicle Safety Instructor

An “all-terrain vehicle safety instructor” is a person who is sponsored by an all-terrain vehicle safety training organization, who has completed a course in all-terrain vehicle safety instruction administered by an approved all-terrain vehicle safety training organization, and who has been licensed by the department pursuant to Section 11105.1.

§ 111.5. All-Terrain Vehicle Safety Training Organization

An “all-terrain vehicle safety training organization” is any organization which is approved to offer a program of instruction in all-terrain vehicle safety, including all-terrain vehicle safety instruction training, by the Off-Highway Vehicle Safety Education Committee and which has been issued a license by the department pursuant to Section 11105.6.

§ 290. Department

"Department" means the Department of Motor Vehicles except, when used in Chapter 2 (commencing with Section 2100) of Division 2 and in Divisions 11 (commencing with Section 21000), 12 (commencing with Section 24000), 13 (commencing with Section 29000), 14 (commencing with Section 31600), 14.1 (commencing with Section 32000), 14.3 (commencing with Section 32100), 14.5 (commencing with Section 33000), 14.7 (commencing with Section 34000), and 14.8 (commencing with Section 34500), it shall mean the Department of the California Highway Patrol.

§ 360. Highway

"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.

§ 436. Off-Highway Motorcycle

An "off-highway motorcycle" means a motorcycle or motor-driven cycle which is subject to identification under this code.

§ 527. Road

- (a) "Road" means any existing vehicle route established before January 1, 1979, with significant evidence of prior regular travel by vehicles subject to registration pursuant to Article 1 (commencing with Section 4000) of Chapter 1 of Division 3; provided, that "road" does not mean any route traversed exclusively by bicycles as defined in Section 39001, motorcycles as defined in Section 400, motor-driven cycles as defined in Section 405, or off-highway motor vehicles as defined in Section 38012.
- (b) Even though nature may alter or eliminate portions of an existing vehicle route, the route shall still be considered a road where there is evidence of periodic use.
- (c) A vehicle route need not necessarily be a publicly or privately maintained surface to be a road, as defined, for purposes of this section. Nothing contained herein shall pertain to any property in an incorporated area or properties held in private ownership.
- (d) This section is definitional only and nothing contained herein shall be deemed to affect, alter, create, or destroy any right, title, or interest in real property, including, but not limited to, any permit, license, or easement; nor shall this chapter be deemed to affect the liability, or lack thereof, of any owner of an interest of real property based upon the use, possession, or ownership of such interest in real property or the entry upon such property by any person.

- (e) This section shall only apply in a county where the board of supervisors has adopted a resolution or enacted an ordinance providing for such application.

§ 557. Snowmobile

A “snowmobile” is a motor vehicle designed to travel over ice or snow in whole or in part on skis, belts, or cleats, which is commonly referred to as an Over Snow Vehicle (OSV).

§ 590. Street

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

§ 592. Street or Highway – Highway Exclusion

“Highway”, for the purposes of Division 3 (commencing with Section 4000), Division 12 (commencing with Section 24000), Division 13 (commencing with Section 29000), Division 14.8 (commencing with Section 34500), and Division 15 (commencing with Section 35000), does not include a way or place under the jurisdiction of a federal governmental agency, which lies on national forest or private lands, is open to public use, and for which the cost of maintenance of such way or place is borne or contributed to directly by any users thereof.

DIVISION 2. Administration

CHAPTER 1. The Department of Motor Vehicles

ARTICLE 2. Powers and Duties

§ 1678. Automatic Registration Fee Increases Based Upon Consumer Price Index

- (a) Between January 1, 2004, and December 31, 2004, inclusive, the fee amounts set forth in Section 488.385 of the Code of Civil Procedure, Section 10902 of the Revenue and Taxation Code, and Sections 4604, 5014, 5036, 6700.25, 9102.5, 9250.8, 9250.13, 9252, 9254, 9258, 9261, 9265, 9702, 11515, 11515.2, 12814.5, 14900, 14900.1, 14901, 14902, 38121, 38225.4, 38225.5, 38232, 38255, 38260, and 38265 shall be the base fee amounts charged by the department.
- (b) On January 1, 2005, and every January 1 thereafter, the department shall adjust the fees imposed under the sections listed in subdivision (a) by increasing each fee in an amount equal the increase in the California Consumer Price Index for the prior year,

as calculated by the Department of Finance, with amounts equal to or greater than fifty cents (\$0.50) rounded to the next highest whole dollar.

DIVISION 3. Registration of Vehicles and Certificates of Title

CHAPTER 1. Original and Renewal of Registration; Issuance of Certificates of Title

ARTICLE 1. Vehicles Subject to Registration

§ 4000. Registration Required

- (a) (1) No person shall drive, move, or leave standing upon a highway, or in an offstreet public parking facility, any motor vehicle, trailer, semitrailer, pole or pipe dolly, or logging dolly, unless it is registered and the appropriate fees have been paid under this code or registered under the permanent trailer identification program, except that an off-highway motor vehicle which displays an identification plate or device issued by the department pursuant to Section 38010 may be driven, moved, or left standing in an offstreet public parking facility without being registered or paying registration fees.
 - (2) For purposes of this subdivision, “offstreet public parking facility” means either of the following:
 - (A) Any publicly owned parking facility.
 - (B) Any privately owned parking facility for which no fee for the privilege to park is charged and which is held open for the common public use of retail customers.
 - (3) This subdivision does not apply to any motor vehicle stored in a privately owned offstreet parking facility by, or with the express permission of, the owner of the privately owned offstreet parking facility.
- (b) No person shall drive, move, or leave standing upon a highway any motor vehicle, as defined in Chapter 2 (commencing with Section 39010) of Part 1 of Division 26 of the Health and Safety Code, which has been registered in violation of Part 5 (commencing with Section 43000) of that Division 26.
 - (c) Subdivisions (a) and (b) do not apply to off-highway motor vehicles operated pursuant to Sections 38025 and 38026.5.
 - (d) This section does not apply, following payment of fees due for registration, during the time that registration and transfer is being withheld by the department pending the investigation of any use tax due under the Revenue and Taxation Code.

- (e) Subdivision (a) does not apply to a vehicle that is towed by a tow truck on the order of a sheriff, marshal, or other official acting pursuant to a court order or on the order of a peace officer acting pursuant to this code.
- (f) Subdivision (a) applies to a vehicle that is towed from a highway or offstreet parking facility under the direction of a highway service organization when that organization is providing emergency roadside assistance to that vehicle. However, the operator of a tow truck providing that assistance to that vehicle is not responsible for the violation of subdivision (a) with respect to that vehicle. The owner of an unregistered vehicle that is disabled and located on private property, shall obtain a permit from the department pursuant to Section 4003 prior to having the vehicle towed on the highway.
- (g) For purposes of this section, possession of a California driver's license by the registered owner of a vehicle shall give rise to a rebuttable presumption that the owner is a resident of California.

DIVISION 6. Drivers' Licenses

CHAPTER 1. Issuance of Licenses, Expiration, and Renewal

ARTICLE 1. Persons Required to Be Licensed, Exemptions, and Age Limits

§ 12501. Persons Exempt From Driver's License Requirement

The following persons are not required to obtain a driver's license:

- (a) An officer or employee of the United States, while operating a motor vehicle owned or controlled by the United States on the business of the United States, except when the motor vehicle being operated is a commercial motor vehicle, as defined in Section 15210.
- (b) Any person while driving or operating implements of husbandry incidentally operated or moved over a highway, except as provided in Section 36300 or 36305.
- (c) Any person driving or operating an off-highway motor vehicle subject to identification, as defined in Section 38012, while driving or operating such motor vehicle as provided in Section 38025. Nothing in this subdivision authorizes operation of a motor vehicle by a person without a valid driver's license upon any offstreet parking facility, as defined in subdivision (c) of Section 12500.

CHAPTER 4. Violation of License Provisions**§ 14601. Driving When Privilege Suspended or Revoked**

- (a) No person shall drive a motor vehicle at any time when that person's driving privilege is suspended or revoked for reckless driving in violation of Section 23103, 23104, or 23105, any reason listed in subdivision (a) or (c) of Section 12806 authorizing the department to refuse to issue a license, negligent or incompetent operation of a motor vehicle as prescribed in subdivision (e) of Section 12809, or negligent operation as prescribed in Section 12810.5, if the person so driving has knowledge of the suspension or revocation. Knowledge shall be conclusively presumed if mailed notice has been given by the department to the person pursuant to Section 13106. The presumption established by this subdivision is a presumption affecting the burden of proof.
- (b) Any person convicted under this section shall be punished as follows:
- (1) Upon a first conviction, by imprisonment in a county jail for not less than five days or more than six months and by a fine of not less than three hundred dollars (\$300) or more than one thousand dollars (\$1,000).
 - (2) If the offense occurred within five years of a prior offense which resulted in a conviction of a violation of this section or Section 14601.1, 14601.2, or 14601.5, by imprisonment in a county jail for not less than 10 days or more than one year and by a fine of not less than five hundred dollars (\$500) or more than two thousand dollars (\$2,000).
- (c) If the offense occurred within five years of a prior offense which resulted in a conviction of a violation of this section or Section 14601.1, 14601.2, or 14601.5, and is granted probation, the court shall impose as a condition of probation that the person be confined in a county jail for at least 10 days.
- (d) Nothing in this section prohibits a person from driving a motor vehicle, which is owned or utilized by the person's employer, during the course of employment on private property which is owned or utilized by the employer, except an offstreet parking facility as defined in subdivision (d) of Section 12500.
- (e) When the prosecution agrees to a plea of guilty or nolo contendere to a charge of a violation of this section in satisfaction of, or as a substitute for, an original charge of a violation of Section 14601.2, and the court accepts that plea, except, in the interest of justice, when the court finds it would be inappropriate, the court shall, pursuant to Section 23575, require the person convicted, in addition to any other requirements, to install a certified ignition interlock device on any vehicle that the person owns or operates for a period not to exceed three years.

- (f) *This section also applies to the operation of an off-highway motor vehicle on those lands to which the Chappie-Z'berg Off-Highway Motor Vehicle Law of 1971 (Division 16.5 (commencing with Section 38000)) applies as to off-highway motor vehicles, as described in Section 38001.*

§ 14601.1. Driving When Privilege Suspended or Revoked for Other Reasons

- (a) No person shall drive a motor vehicle when his or her driving privilege is suspended or revoked for any reason other than those listed in Section 14601, 14601.2, or 14601.5, if the person so driving has knowledge of the suspension or revocation. Knowledge shall be conclusively presumed if mailed notice has been given by the department to the person pursuant to Section 13106. The presumption established by this subdivision is a presumption affecting the burden of proof.
- (b) Any person convicted under this section shall be punished as follows:
- (1) Upon a first conviction, by imprisonment in the county jail for not more than six months or by a fine of not less than three hundred dollars (\$300) or more than one thousand dollars (\$1,000), or by both that fine and imprisonment.
 - (2) If the offense occurred within five years of a prior offense which resulted in a conviction of a violation of this section or Section 14601, 14601.2, or 14601.5, by imprisonment in the county jail for not less than five days or more than one year and by a fine of not less than five hundred dollars (\$500) or more than two thousand dollars (\$2,000).
- (c) Nothing in this section prohibits a person from driving a motor vehicle, which is owned or utilized by the person's employer, during the course of employment on private property which is owned or utilized by the employer, except an offstreet parking facility as defined in subdivision (d) of Section 12500.
- (d) When the prosecution agrees to a plea of guilty or nolo contendere to a charge of a violation of this section in satisfaction of, or as a substitute for, an original charge of a violation of Section 14601.2, and the court accepts that plea, except, in the interest of justice, when the court finds it would be inappropriate, the court shall, pursuant to Section 23575, require the person convicted, in addition to any other requirements, to install a certified ignition interlock device on any vehicle that the person owns or operates for a period not to exceed three years.
- (e) *This section also applies to the operation of an off-highway motor vehicle on those lands to which the Chappie-Z'berg Off-Highway Motor Vehicle Law of 1971 (Division 16.5 (commencing with Section 38000)) applies as to off-highway motor vehicles, as described in Section 38001.*

§ 14601.2. Driving When Privilege Suspended or Revoked for Driving Under the Influence, With Excessive Blood Alcohol, or When Addicted

- (a) No person shall drive a motor vehicle at any time when that person's driving privilege is suspended or revoked for a conviction of a violation of Section 23152 or 23153 if the person so driving has knowledge of the suspension or revocation.
- (b) Except in full compliance with the restriction, no person shall drive a motor vehicle at any time when that person's driving privilege is restricted, if the person so driving has knowledge of the restriction.
- (c) Knowledge of suspension or revocation of the driving privilege shall be conclusively presumed if mailed notice has been given by the department to the person pursuant to Section 13106. Knowledge of restriction of the driving privilege shall be presumed if notice has been given by the court to the person. The presumption established by this subdivision is a presumption affecting the burden of proof.
- (d) A person convicted of a violation of this section shall be punished as follows:
 - (1) Upon a first conviction, by imprisonment in the county jail for not less than 10 days or more than six months and by a fine of not less than three hundred dollars (\$300) or more than one thousand dollars (\$1,000), unless the person has been designated an habitual traffic offender under subdivision (b) of Section 23546, subdivision (b) of Section 23550, or subdivision (d) of Section 23550.5, in which case the person, in addition, shall be sentenced as provided in paragraph (3) of subdivision (e) of Section 14601.3.
 - (2) If the offense occurred within five years of a prior offense that resulted in a conviction of a violation of this section or Section 14601, 14601.1, or 14601.5, by imprisonment in the county jail for not less than 30 days or more than one year and by a fine of not less than five hundred dollars (\$500) or more than two thousand dollars (\$2,000), unless the person has been designated an habitual traffic offender under subdivision (b) of Section 23546, subdivision (b) of Section 23550, or subdivision (d) of Section 23550.5, in which case the person, in addition, shall be sentenced as provided in paragraph (3) of subdivision (e) of Section 14601.3.
- (e) If a person is convicted of a first offense under this section and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for at least 10 days.
- (f) If the offense occurred within five years of a prior offense that resulted in a conviction of a violation of this section or Section 14601, 14601.1, or 14601.5 and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for at least 30 days.

- (g) If a person is convicted of a second or subsequent offense that results in a conviction of this section within seven years, but over five years, of a prior offense that resulted in a conviction of a violation of this section or Section 14601, 14601.1, or 14601.5 and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for at least 10 days.
- (h) Pursuant to Section 23575, the court shall require a person convicted of a violation of this section to install a certified ignition interlock device on a vehicle the person owns or operates. Upon receipt of the abstract of a conviction under this section, the department shall not reinstate the privilege to operate a motor vehicle until the department receives proof of either the "Verification of Installation" form as described in paragraph (2) of subdivision (g) of Section 13386 or the Judicial Council Form I.D. 100.
- (i) Nothing in this section prohibits a person who is participating in, or has completed, an alcohol or drug rehabilitation program from driving a motor vehicle that is owned or utilized by the person's employer, during the course of employment on private property that is owned or utilized by the employer, except an offstreet parking facility as defined in subdivision (c) of Section 12500.
- (j) *This section also applies to the operation of an off-highway motor vehicle on those lands that the Chappie-Z'berg Off-Highway Motor Vehicle Law of 1971 (Division 16.5 (commencing with Section 38000)) applies as to off-highway motor vehicles, as described in Section 38001.*

§ 14601.3. Habitual Traffic Offender

- (a) It is unlawful for a person whose driving privilege has been suspended or revoked to accumulate a driving record history which results from driving during the period of suspension or revocation. A person who violates this subdivision is designated a habitual traffic offender.

For purposes of this section, a driving record history means any of the following, if the driving occurred during any period of suspension or revocation:

- (1) Two or more convictions within a 12-month period of an offense given a violation point count of two pursuant to Section 12810.
- (2) Three or more convictions within a 12-month period of an offense given a violation point count of one pursuant to Section 12810.
- (3) Three or more accidents within a 12-month period that are subject to the reporting requirements of Section 16000.

- (4) Any combination of convictions or accidents, as specified in paragraphs (1) to (3), inclusive, which results during any 12-month period in a violation point count of three or more pursuant to Section 12810.
- (b) Knowledge of suspension or revocation of the driving privilege shall be conclusively presumed if mailed notice has been given by the department to the person pursuant to Section 13106. The presumption established by this subdivision is a presumption affecting the burden of proof.
- (c) The department, within 30 days of receipt of a duly certified abstract of the record of any court or accident report which results in a person being designated an habitual traffic offender, may execute and transmit by mail a notice of that designation to the office of the district attorney having jurisdiction over the location of the person's last known address as contained in the department's records.
- (d)
 - (1) The district attorney, within 30 days of receiving the notice required in subdivision (c), shall inform the department of whether or not the person will be prosecuted for being an habitual traffic offender.
 - (2) Notwithstanding any other provision of this section, any habitual traffic offender designated under subdivision (b) of Section 23546, subdivision (b) of Section 23550, or subdivision (b) of Section 23550.5, who is convicted of violating Section 14601.2 shall be sentenced as provided in paragraph (3) of subdivision (e).
- (e) Any person convicted under this section of being an habitual traffic offender shall be punished as follows:
 - (1) Upon a first conviction, by imprisonment in the county jail for 30 days and by a fine of one thousand dollars (\$1,000).
 - (2) Upon a second or any subsequent offense within seven years of a prior conviction under this section, by imprisonment in the county jail for 180 days and by a fine of two thousand dollars (\$2,000).
 - (3) Any habitual traffic offender designated under Section 193.7 of the Penal Code or under subdivision (b) of Section 23546, subdivision (b) of Section 23550, subdivision (b) of Section 23550.5, or subdivision (d) of Section 23566 who is convicted of a violation of Section 14601.2 shall be punished by imprisonment in the county jail for 180 days and by a fine of two thousand dollars (\$2,000). The penalty in this paragraph shall be consecutive to that imposed for the violation of any other law.
- (f) *This section also applies to the operation of an off-highway motor vehicle on those lands to which the Chappie-Z'berg Off-Highway Motor Vehicle Law of 1971*

(Division 16.5 (commencing with Section 38000)) applies as to off-highway motor vehicles, as described in Section 38001.

§ 14601.4. Driving When Privilege Suspended or Revoked Causing Injury

- (a) It is unlawful for a person, while driving a vehicle with a license suspended or revoked pursuant to Section 14601.2 to do an act forbidden by law or neglect a duty imposed by law in the driving of the vehicle, which act or neglect proximately causes bodily injury to a person other than the driver. In proving the person neglected a duty imposed by law in the driving of the vehicle, it is not necessary to prove that a specific section of this code was violated.
- (b) A person convicted under this section shall be imprisoned in the county jail and shall not be released upon work release, community service, or other release program before the minimum period of imprisonment, prescribed in Section 14601.2, is served. If a person is convicted of that offense and is granted probation, the court shall require that the person convicted serve at least the minimum time of imprisonment, as specified in those sections, as a term or condition of probation.
- (c) When the prosecution agrees to a plea of guilty or nolo contendere to a charge of a violation of this section in satisfaction of, or as a substitute for, an original charge of a violation of Section 14601.2, and the court accepts that plea, except, in the interest of justice, when the court finds it should be inappropriate, the court shall, pursuant to Section 23575, require the person convicted, in addition to other requirements, to install a certified ignition interlock device on a vehicle that the person owns or operates for a period not to exceed three years.
- (d) *This section also applies to the operation of an off-highway motor vehicle on those lands that the Chappie-Z'berg Off-Highway Motor Vehicle Law of 1971 (Division 16.5 (commencing with Section 38000)) applies as to off-highway motor vehicles, as described in Section 38001.*
- (e) Upon receipt of the abstract of a conviction under this section, the department shall not reinstate the privilege to operate a motor vehicle until the department receives proof of either the "Verification of Installation" form as described in paragraph (2) of subdivision (g) of Section 13386 or the Judicial Council Form I.D. 100.

§ 14601.5. Driving on Suspended or Revoked License; Penalties

- (a) A person may not drive a motor vehicle at any time when that person's driving privilege is suspended or revoked pursuant to Section 13353, 13353.1, or 13353.2 and that person has knowledge of the suspension or revocation.

- (b) Except in full compliance with the restriction, a person may not drive a motor vehicle at any time when that person's driving privilege is restricted pursuant to Section 13353.7 or 13353.8 and that person has knowledge of the restriction.
- (c) Knowledge of suspension, revocation, or restriction of the driving privilege shall be conclusively presumed if notice has been given by the department to the person pursuant to Section 13106. The presumption established by this subdivision is a presumption affecting the burden of proof.
- (d) A person convicted of a violation of this section is punishable, as follows:
 - (1) Upon a first conviction, by imprisonment in the county jail for not more than six months or by a fine of not less than three hundred dollars (\$300) or more than one thousand dollars (\$1,000), or by both that fine and imprisonment.
 - (2) If the offense occurred within five years of a prior offense that resulted in a conviction for a violation of this section or Section 14601, 14601.1, 14601.2, or 14601.3, by imprisonment in the county jail for not less than 10 days or more than one year, and by a fine of not less than five hundred dollars (\$500) or more than two thousand dollars (\$2,000).
- (e) In imposing the minimum fine required by subdivision (d), the court shall take into consideration the defendant's ability to pay the fine and may, in the interest of justice, and for reasons stated in the record, reduce the amount of that minimum fine to less than the amount otherwise imposed.
- (f) This section does not prohibit a person who is participating in, or has completed, an alcohol or drug rehabilitation program from driving a motor vehicle, that is owned or utilized by the person's employer, during the course of employment on private property that is owned or utilized by the employer, except an offstreet parking facility as defined in subdivision (d) of Section 12500.
- (g) When the prosecution agrees to a plea of guilty or nolo contendere to a charge of a violation of this section in satisfaction of, or as a substitute for, an original charge of a violation of Section 14601.2, and the court accepts that plea, except, in the interest of justice, when the court finds it would be inappropriate, the court shall, pursuant to Section 23575, require the person convicted, in addition to other requirements, to install a certified ignition interlock device on a vehicle that the person owns or operates for a period not to exceed three years.
- (h) *This section also applies to the operation of an off-highway motor vehicle on those lands that the Chappie-Z'berg Off-Highway Motor Vehicle Law of 1971 (Division 16.5 (commencing with Section 38000)) applies as to off-highway motor vehicles, as described in Section 38001.*

- (i) Upon receipt of the abstract of a conviction under this section, the department shall not reinstate the privilege to operate a motor vehicle until the department receives proof of either the "Verification of Installation" form as described in paragraph (2) of subdivision (g) of Section 13386 or the Judicial Council Form I.D. 100.

DIVISION 11. Rules of the Road

CHAPTER 12. Public Offenses

ARTICLE 1. Driving Offenses

§ 23128. Snowmobiles

It is unlawful for any person to operate a snowmobile in the following manner:

- (a) On a highway except as provided in Section 38025.
- (b) In a careless or negligent manner so as to endanger a person or property.
- (c) For the purpose of pursuing deer or other game mammal with intent to harass such animals.
- (d) For the purpose of violating Section 602 of the Penal Code.

ARTICLE 1.3. Offenses by Persons Under 21 Years of Age Involving Alcohol

§ 23136. Persons Under 21 With Blood-Alcohol of 0.01 Percent or Greater

- (a) Notwithstanding Sections 23152 and 23153, it is unlawful for a person under the age of 21 years who has a blood-alcohol concentration of 0.01 percent or greater, as measured by a preliminary alcohol screening test or other chemical test, to drive a vehicle. However, this section shall not be a bar to prosecution under Section 23152 or 23153 or any other provision of law.
- (b) A person shall be found to be in violation of subdivision (a) if the person was, at the time of driving, under the age of 21 years, and the trier of fact finds that the person had consumed an alcoholic beverage and was driving a vehicle with a blood-alcohol concentration of 0.01 percent or greater, as measured by a preliminary alcohol screening test or other chemical test.
- (c)
 - (1) Any person under the age of 21 years who drives a motor vehicle is deemed to have given his or her consent to a preliminary alcohol screening test or other chemical test for the purpose of determining the presence of alcohol in the person, if lawfully detained for an alleged violation of subdivision (a).
 - (2) The testing shall be incidental to a lawful detention and administered at the direction of a peace officer having reasonable cause to believe the person was driving a motor vehicle in violation of subdivision (a).
 - (3) The person shall be told that his or her failure to submit to, or the failure to complete, a preliminary alcohol screening test or other chemical test as requested

will result in the suspension or revocation of the person's privilege to operate a motor vehicle for a period of one year to three years, as provided in Section 13353.1.

ARTICLE 1.5. Juvenile Offenses Involving Alcohol

§ 23140. Alcohol; Minor Driver

- (a) It is unlawful for a person under the age of 21 years who has 0.05 percent or more, by weight, of alcohol in his or her blood to drive a vehicle.
- (b) A person may be found to be in violation of subdivision (a) if the person was, at the time of driving, under the age of 21 years and under the influence of, or affected by, an alcoholic beverage regardless of whether a chemical test was made to determine that person's blood-alcohol concentration and if the trier of fact finds that the person had consumed an alcoholic beverage and was driving a vehicle while having a concentration of 0.05 percent or more, by weight, of alcohol in his or her blood.
- (c) Notwithstanding any provision of law to the contrary, upon a finding that a person has violated this section, the clerk of the court, or judge if there is no clerk, shall prepare within 10 days after the finding and immediately forward to the department an abstract of the record of the court in which the finding is made. That abstract shall be a public record and available for public inspection in the same manner as other records reported under Section 1803.

ARTICLE 2. Offenses Involving Alcohol and Drugs

§ 23152. DUI; Operative Until Notification Per (e) and (f)

- (a) It is unlawful for any person who is under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, to drive a vehicle.
- (b) It is unlawful for any person who has 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle.

For purposes of this article and Section 34501.16, percent, by weight, of alcohol in a person's blood is based upon grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

In any prosecution under this subdivision, it is a rebuttable presumption that the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after the driving.

- (c) It is unlawful for any person who is addicted to the use of any drug to drive a vehicle. This subdivision shall not apply to a person who is participating in a narcotic treatment program approved pursuant to Article 3 (commencing with Section 11875) of Chapter 1 of Part 3 of Division 10.5 of the Health and Safety Code.
- (d) It is unlawful for any person who has 0.04 percent or more, by weight, of alcohol in his or her blood to drive a commercial motor vehicle, as defined in Section 15210.

In any prosecution under this subdivision, it is a rebuttable presumption that the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after the driving.

- (e) This section shall become operative on January 1, 1992, and shall remain operative until the director determines that federal regulations adopted pursuant to the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. Sec. 2701 et seq.) contained in Section 383.51 or 391.15 of Title 49 of the Code of Federal Regulations do not require the state to prohibit operation of commercial vehicles when the operator has a concentration of alcohol in his or her blood of 0.04 percent by weight or more.
- (f) The director shall submit a notice of the determination under subdivision (e) to the Secretary of State, and this section shall be repealed upon the receipt of that notice by the Secretary of State.

§ 23152. DUI; Operative When Condition in (d) Is Met

- (a) It is unlawful for any person who is under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, to drive a vehicle.
- (b) It is unlawful for any person who has 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle.

For purposes of this article and Section 34501.16, percent, by weight, of alcohol in a person's blood is based upon grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

In any prosecution under this subdivision, it is a rebuttable presumption that the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after the driving.

- (c) It is unlawful for any person who is addicted to the use of any drug to drive a vehicle. This subdivision shall not apply to a person who is participating in a narcotic treatment program approved pursuant to Article 3 (commencing with Section 11875) of Chapter 1 of Part 3 of Division 10.5 of the Health and Safety Code.
- (d) This section shall become operative only upon the receipt by the Secretary of State of the notice specified in subdivision (f) of Section 23152, as added by Section 25 of Chapter 1114 of the Statutes of 1989.

§ 23153. DUI Causing Injury; Operative Until Notification Per (e) and (f)

- (a) It is unlawful for any person, while under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, to drive a vehicle and concurrently do any act forbidden by law, or neglect any duty imposed by law in driving the vehicle, which act or neglect proximately causes bodily injury to any person other than the driver.
- (b) It is unlawful for any person, while having 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle and concurrently do any act forbidden by law, or neglect any duty imposed by law in driving the vehicle, which act or neglect proximately causes bodily injury to any person other than the driver.

In any prosecution under this subdivision, it is a rebuttable presumption that the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after driving.

- (c) In proving the person neglected any duty imposed by law in driving the vehicle, it is not necessary to prove that any specific section of this code was violated.
- (d) It is unlawful for any person, while having 0.04 percent or more, by weight, of alcohol in his or her blood to drive a commercial motor vehicle, as defined in Section 15210, and concurrently to do any act forbidden by law or neglect any duty imposed by law in driving the vehicle, which act or neglect proximately causes bodily injury to any person other than the driver.

In any prosecution under this subdivision, it is a rebuttable presumption that the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of performance of a chemical test within three hours after driving.

- (e) This section shall become operative on January 1, 1992, and shall remain operative until the director determines that federal regulations adopted pursuant to the Commercial Motor Vehicle Act of 1986 (49 U.S.C. Sec. 2701 et seq.) contained in

Section 383.51 or 391.15 of Title 49 of the Code of Federal Regulations do not require the state to prohibit operation of commercial vehicles when the operator has a concentration of alcohol in his or her blood of 0.04 percent by weight or more.

- (f) The director shall submit a notice of the determination under subdivision (e) to the Secretary of State, and this section shall be repealed upon the receipt of that notice by the Secretary of State.

§ 23153. DUI Causing Injury; Operative When Condition (d) is Met

- (a) It is unlawful for any person, while under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, to drive a vehicle and concurrently do any act forbidden by law or neglect any duty imposed by law in driving the vehicle, which act or neglect proximately causes bodily injury to any person other than the driver.
- (b) It is unlawful for any person, while having 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle and concurrently do any act forbidden by law or neglect any duty imposed by law in driving the vehicle, which act or neglect proximately causes bodily injury to any person other than the driver.

In any prosecution under this subdivision, it is a rebuttable presumption that the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three hours after driving.

- (c) In proving the person neglected any duty imposed by law in driving the vehicle, it is not necessary to prove that any specific section of this code was violated.
- (d) This section shall become operative only upon the receipt by the Secretary of State of the notice specified in subdivision (f) of Section 23153, as added by Section 30 of Chapter 1114 of the Statutes of 1989.

§ 23215. CHP Enforcement Off the Highway

The department may, but shall not be required to, provide patrol or enforce the provisions of Section 23152 for offenses which occur other than upon a highway.

§ 23220. Drinking While Driving

- (a) No person shall drink any alcoholic beverage while driving a motor vehicle upon any highway or on any lands described in subdivision (b).

- (b) *As used in subdivision (a), "lands" means those lands to which the Chappie-Z'berg Off-Highway Motor Vehicle Law of 1971 (Division 16.5 (commencing with Section 38000)) applies as to off-highway motor vehicles, as described in Section 38001.*

§ 23222. Possession of Marijuana or Open Container While Driving

- (a) No person shall have in his or her possession on his or her person, while driving a motor vehicle upon a highway or on lands, as described in subdivision (b) of Section 23220, any bottle, can, or other receptacle, containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed.
- (b) Except as authorized by law, every person who possesses, while driving a motor vehicle upon a highway or on lands, as described in subdivision (b) of Section 23220, not more than one avoirdupois ounce of marijuana, other than concentrated cannabis as defined by Section 11006.5 of the Health and Safety Code, is guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars (\$100). Notwithstanding any other provision of law, if the person has been previously convicted three or more times of an offense described in this subdivision during the two-year period immediately preceding the date of commission of the violation to be charged, the previous convictions shall also be charged in the accusatory pleading and, if found to be true by the jury upon a jury trial or by the court upon a court trial or if admitted by the person, Sections 1000.1 and 1000.2 of the Penal Code are applicable to the person, and the court shall divert and refer the person for education, treatment, or rehabilitation, without a court hearing or determination or the concurrence of the district attorney, to an appropriate community program which will accept the person. If the person is so diverted and referred, the person is not subject to the fine specified in this subdivision. In any case in which a person is arrested for a violation of this subdivision and does not demand to be taken before a magistrate, the person shall be released by the arresting officer upon presentation of satisfactory evidence of identity and giving his or her written promise to appear in court, as provided in Section 40500, and shall not be subjected to booking.

§ 23223. Possession of Open Container in Motor Vehicle

- (a) No driver shall have in his or her possession, while in a motor vehicle upon a highway or on lands, as described in subdivision (b) of Section 23220, any bottle, can, or other receptacle, containing any alcoholic beverage that has been opened, or a seal broken, or the contents of which have been partially removed.
- (b) No passenger shall have in his or her possession, while in a motor vehicle upon a highway or on lands, as described in subdivision (b) of Section 23220, any bottle,

can, or other receptacle containing any alcoholic beverage that has been opened or a seal broken, or the contents of which have been partially removed.

§ 23224. Possession of Alcoholic Beverage in Motor Vehicle by Minor

- (a) No person under the age of 21 years shall knowingly drive any motor vehicle carrying any alcoholic beverage, unless the person is accompanied by a parent, responsible adult relative, any other adult designated by the parent, or legal guardian for the purpose of transportation of an alcoholic beverage, or is employed by a licensee under the Alcoholic Beverage Control Act (Division 9 (commencing with Section 23000) of the Business and Professions Code), and is driving the motor vehicle during regular hours and in the course of the person's employment. If the driver was unaccompanied, he or she shall have a complete defense if he or she was following, in a timely manner, the reasonable instructions of his or her parent, legal guardian, responsible adult relative, or adult designee relating to disposition of the alcoholic beverage.
- (b) No passenger in any motor vehicle who is under the age of 21 years shall knowingly possess or have under that person's control any alcoholic beverage, unless the passenger is accompanied by a parent, legal guardian, responsible adult relative, any other adult designated by the parent, or legal guardian for the purpose of transportation of an alcoholic beverage, or is employed by a licensee under the Alcoholic Beverage Control Act (Division 9 (commencing with Section 23000) of the Business and Professions Code), and possession or control is during regular hours and in the course of the passenger's employment. If the passenger was unaccompanied, he or she shall have a complete defense if he or she was following, in a timely manner, the reasonable instructions of his or her parent, legal guardian, responsible adult relative or adult designee relating to disposition of the alcoholic beverage.
- (c) If the vehicle used in any violation of subdivision (a) or (b) is registered to an offender who is under the age of 21 years, the vehicle may be impounded at the owner's expense for not less than one day nor more than 30 days for each violation.
- (d) Any person under 21 years of age convicted of a violation of this section is subject to Section 13202.5.
- (e) Any person convicted for a violation of subdivision (a) or (b) is guilty of a misdemeanor and shall be punished upon conviction by a fine of not more than one thousand dollars (\$1,000) or by imprisonment in the county jail for not more than six months, or by both that fine and imprisonment.

§ 23225. Storage of Opened Container

- (a) (1) It is unlawful for the registered owner of any motor vehicle to keep in a motor vehicle, when the vehicle is upon any highway or on lands, as described in subdivision (b) of Section 23220, any bottle, can, or other receptacle containing any alcoholic beverage that has been opened, or a seal broken, or the contents of which have been partially removed, unless the container is kept in the trunk of the vehicle.
 - (2) If the vehicle is not equipped with a trunk and is not an off-highway motor vehicle subject to identification, as defined in Section 38012, the bottle, can, or other receptacle described in paragraph (1) shall be kept in some other area of the vehicle that is not normally occupied by the driver or passengers. For the purposes of this paragraph, a utility compartment or glove compartment shall be deemed to be within the area occupied by the driver and passengers.
 - (3) If the vehicle is not equipped with a trunk and is an off-highway motor vehicle subject to identification, as defined in subdivision (a) of Section 38012, the bottle, can, or other receptacle described in paragraph (1) shall be kept in a locked container. As used in this paragraph, "locked container" means a secure container that is fully enclosed and locked by a padlock, key lock, combination lock, or similar locking device.
- (b) Subdivision (a) is also applicable to a driver of a motor vehicle if the registered owner is not present in the vehicle.
 - (c) This section shall not apply to the living quarters of a housecar or camper.

§ 23226. Storage of Opened Container in Passenger Compartment

- (a) It is unlawful for any driver to keep in the passenger compartment of a motor vehicle, when the vehicle is upon any highway or on lands, as described in subdivision (b) of Section 23220, any bottle, can, or other receptacle containing any alcoholic beverage that has been opened, or a seal broken, or the contents of which have been partially removed.
- (b) It is unlawful for any passenger to keep in the passenger compartment of a motor vehicle, when the vehicle is upon any highway or on lands, as described in subdivision (b) of Section 23220, any bottle, can, or other receptacle containing any alcoholic beverage that has been opened or a seal broken, or the contents of which have been partially removed.
- (c) This section shall not apply to the living quarters of a housecar or camper.

DIVISION 16.5. Off-Highway Vehicles**CHAPTER 1. General Provisions****§ 38000. Name of Law**

This division may be cited as the Chappie-Z'berg Off-Highway Motor Vehicle Law of 1971.

§ 38001. Applicability of Provisions

- (a) Except as otherwise provided, this division 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.
- (b) Privately owned and maintained parking facilities that are generally open to the public are exempt from this division, unless the facilities are specifically declared subject to this division by the procedure specified in Section 21107.8⁶

⁶§ 21107.8. (a) Any city or county may, by ordinance or resolution, find and declare that there are privately owned and maintained offstreet parking facilities as described in the ordinance or resolution within the city or county that are generally held open for use of the public for purposes of vehicular parking. Upon enactment by a city or county of the ordinance or resolution, Sections 22350, 23103, and 23109 and the provisions of Division 16.5 (commencing with Section 38000) shall apply to privately owned and maintained offstreet parking facilities, except as provided in subdivision (b).

(b) Notwithstanding the provisions of subdivision (a), no ordinance or resolution enacted thereunder shall apply to any offstreet parking facility described therein unless the owner or operator has caused to be posted in a conspicuous place at each entrance to that offstreet parking facility a notice not less than 17 by 22 inches in size with lettering not less than one inch in height, to the effect that the offstreet parking facility is subject to public traffic regulations and control.

(c) No ordinance or resolution shall be enacted under subdivision (a) without a public hearing thereon and 10 days prior written notice to the owner and operator of the privately owned and maintained offstreet parking facility involved.

(d) Section 22507.8 may be enforced without enactment of an ordinance or resolution as required under subdivision (a) or the posting of a notice at each entrance to the offstreet parking facility as required under subdivision (b).

§ 38006. Off-Highway Motor Vehicle Defined

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.

§ 38007. Course of Instruction

The Off-Highway Motor Vehicle Recreation Division of the Department of Parks and Recreation shall adopt courses of instruction in off-highway motor vehicle safety, operation, and principles of environmental preservation by January 1, 2005. For this purpose the division shall consult with the Department of the California Highway Patrol and other public and private agencies or organizations. The division shall make this course of instruction available directly, through contractual agreement, or through volunteers authorized by the division to conduct a course of instruction.

CHAPTER 2. REGISTRATION OF OFF-HIGHWAY VEHICLES; ORIGINAL AND RENEWAL OF IDENTIFICATION; ISSUANCE OF CERTIFICATES OF OWNERSHIP

ARTICLE 1. Motor Vehicles Subject to Identification

§ 38010. Issuance and Display of Identification Plates

- (a) Except as otherwise provided in subdivision (b), every motor vehicle specified in Section 38012 that is not registered under this code because it is to be operated or used exclusively off the highways, except as provided in this division, shall be issued and display an identification plate or device issued by the department.
- (b) Subdivision (a) does not apply to any of the following:

(e) The department [CHP] shall not be required to provide patrol or enforce any provisions of this code on any privately owned and maintained offstreet parking facility subject to the provisions of this code under this section except those provisions applicable to private property other than by action under this section.

- (1) Motor vehicles specifically exempted from registration under this code, including, but not limited to, motor vehicles exempted pursuant to Sections 4006, 4010, 4012, 4013, 4015, 4018, and 4019.
- (2) Implements of husbandry.
- (3) Motor vehicles owned by the state, or any county, city, district, or political subdivision of the state, or the United States.
- (4) Motor vehicles owned or operated by, or operated under contract with a utility, whether privately or publicly owned, when used as specified in Section 22512.
- (5) Special construction equipment described in Section 565, regardless of whether those motor vehicles are used in connection with highway or railroad work.
- (6) A motor vehicle with a currently valid special permit issued under Section 38087.5 that is owned or operated by a nonresident of this state and the vehicle is not identified or registered in a foreign jurisdiction. For the purposes of this paragraph, a person who holds a valid driver's license issued by a foreign jurisdiction is presumed to be a nonresident.
- (7) Commercial vehicles weighing more than 6,000 pounds unladen.
- (8) Any motorcycle manufactured in the year 1942 or prior.
- (9) Four-wheeled motor vehicles operated solely in organized racing or competitive events upon a closed course when those events are conducted under the auspices of a recognized sanctioning body or by permit issued by the local governmental authority having jurisdiction.
- (10) A motor vehicle with a currently valid identification or registration permit issued by another state.

§ 38012. Definitions

- (a) As used in this division, “off-highway motor vehicle subject to identification” means a motor vehicle subject to the provisions of subdivision (a) of Section 38010.
- (b) As used in this division, “off-highway motor vehicle” includes, but is not limited to, the following:
 - (1) Any motorcycle or motor-driven cycle, except for any motorcycle which is eligible for a special transportation identification device issued pursuant to Section 38088.
 - (2) Any snowmobile or other vehicle designed to travel over snow or ice, as defined in Section 557.

- (3) Any motor vehicle commonly referred to as a sand buggy, dune buggy, or all-terrain vehicle.
- (4) Any motor vehicle commonly referred to as a jeep.

§ 38013. Identification, Identification Certificate Defined

Unless otherwise provided, the terms “identification” and “identification certificate” shall have the same meaning as the terms “registration” and “registration card,” respectively, as used in Division 3 (commencing with Section 4000).

§ 38014. Closed Course Defined

As used in this division, “closed course” includes, but is not limited to, a speedway, racetrack, or a prescribed and defined route of travel on or off a highway that is closed to all motor vehicles other than those of participants. A closed course is one which is not available at any time for vehicular access by the general public.

§ 38020. Identification Required

Except as otherwise provided in this division, no person shall operate, transport, or leave standing any off-highway motor vehicle subject to identification under this code which is not registered under the provisions of Division 3 (commencing with Section 4000), unless it is identified under the provisions of this chapter. A violation of this section is an infraction. Riding in violation of seasons established by Section 2412(f) and 2415 of Title 13 of the California Code of Regulations constitutes a violation of this section. This section shall not apply to the operation, transportation, or leaving standing of an off-highway vehicle pursuant to a valid special permit.

§ 38021. Exemption: Special Permit

- (a) A manufacturer, dealer, or distributor, or his agent, owning or lawfully possessing any off-highway motor vehicle of a type otherwise required to be identified hereunder may operate or use such vehicle without an identification certificate and plate or device upon condition that each such vehicle is accompanied by a special permit issued to the manufacturer, dealer, or distributor as provided in this division.
- (b) Persons licensed pursuant to Article 1 (commencing with Section 11700) of Chapter 4 of Division 5 need not obtain such a permit provided the vehicle is operated or used under special plates issued to the licensee.

§ 38022. Motorcycles: Transportation on Highway

Notwithstanding the provisions of Section 4000, motorcycles issued a special transportation identification device pursuant to Section 38088 may be transported upon a highway to and from a closed course.

§ 38025. Operation on Highway

In accordance with subdivision (c) of Section 4000, a motor vehicle issued a plate or device pursuant to Section 38160 may be operated or driven upon a highway but only as follows:

- (a) On a two-lane highway, only to cross the highway at an angle of approximately 90 degrees to the direction of the roadway and at a place where a quick and safe crossing may be made, or only when the roadway is not maintained by snow removal equipment and is closed to motor vehicles that are subject to registration pursuant to Division 3 (commencing with Section 4000), or only to cross a highway in the manner specified in subdivision (b).
- (b) With respect to the crossing of a highway having more than two lanes, or a highway having limited access, a motor vehicle may cross a highway but only at a place designated by the Department of Transportation or local authorities with respect to a highway under their respective jurisdictions as a place where a motor vehicle, or specified types of motor vehicle, may cross a highway, and a vehicle shall cross the highway only at that designated place and only in a quick and safe manner.
- (c) The Department of Transportation and local authorities with respect to a highway under their respective jurisdictions may designate, by the erection of an appropriate sign of a type approved by the Department of Transportation, a place where a motor vehicle, or specified type of motor vehicle, may cross a highway having more than two lanes or having limited access.
- (d) A motor vehicle identified pursuant to Section 38010 may be towed upon a highway, but not driven, if the vehicle displays a plate or device issued pursuant to Section 38160.
- (e) A motorcycle identified pursuant to Section 38010 may be pushed upon a highway, but not ridden, if the motorcycle has displayed upon it a plate or device issued pursuant to Section 38160.
- (f) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may operate or drive an off-highway vehicle identified pursuant to Section 38010 upon a highway in an emergency response situation.

§ 38026. Designating Highways: 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 a portion thereof, 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 thereof, for combined use and shall prescribe rules and regulations therefore. No highway, or portion thereof, shall be so designated for a distance of more than three miles. No freeway shall 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 thereof 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, an agency of the federal government, or the Director of Parks and Recreation shall notify the Commissioner 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.
- (d) A designation of a highway, or a portion thereof, under subdivision (a) shall become effective upon the erection of appropriate signs of a type approved by the Department of Transportation on and along the highway, or portion thereof.

The cost of the signs shall be reimbursed from the Off-Highway Vehicle Trust Fund, when appropriated by the Legislature, or by expenditure of funds from a grant or cooperative agreement made pursuant to Section 5090.50 of the Public Resources Code.

§ 38026.5. Operation on Designated Highways

- (a) In accordance with subdivision (c) of Section 4000, a motor vehicle issued a plate or device pursuant to Section 38160 may be operated or driven on a local highway, or a portion thereof, which is designated pursuant to Section 38026 if the operation is in

conformance with the Vehicle Code and the vehicle complies with off-highway vehicle equipment requirements specified in this division.

- (b) Notwithstanding subdivision (a), it is unlawful for any person using an off-highway vehicle on a combined-use highway to do any of the following:
- (1) Operate an off-highway motor vehicle on the highway during the hours of darkness.
 - (2) Operate any vehicle on the highway which does not have an operational stoplight.
 - (3) Operate any vehicle on the highway which does not have rubber tires.
 - (4) Operate any vehicle without a valid driver's license of the appropriate class for the vehicle operation in possession.
 - (5) Operate any vehicle on the highway without complying with the provisions of Article 2 (commencing with Section 16020) of Chapter 1 of Division 7.

§ 38027. Movement of Motor-Driven Cycles Adjacent to a Highway

Motor-driven cycles issued a plate or device pursuant to Section 38160 may be moved, by nonmechanical means only, adjacent to a roadway, in such a manner so as to not interfere with traffic upon the highway, only for the purpose of gaining access to, or returning from, areas designed for the operation of off-highway vehicles, when no other route is available. The Department of Transportation or local authority may designate access routes leading to off-highway parks as suitable for the operation of off-highway vehicles, if such access routes are available to the general public only for pedestrian and off-highway motor vehicle travel.

§ 38030. Off-Highway Vehicles Delivered to Dealer

Notwithstanding the provisions of Section 38020, an unidentified off-highway motor vehicle subject to identification may be left standing upon a highway or public or private property adjacent to the place of business of a dealer of such motor vehicles when done so in connection with the loading and unloading or storage of such vehicles to be used in the dealer's business, unless already prohibited by law.

ARTICLE 2. Original Identification

§ 38040. Application for Identification: Other Than a Motorcycle

Application for the original identification of a motor vehicle, other than a motorcycle, required to be identified pursuant to this division shall be made by the owner to the

department upon the appropriate form furnished by it and shall contain all of the following:

- (a) The true, full name, business or residence and mailing address, and the driver's license or identification card number, if any, of the owner and the legal owner, if any.
- (b) The name of the county in which the owner resides.
- (c) A description of the vehicle, including the following, insofar as it may exist:
 - (1) The make, model, and type of body.
 - (2) The vehicle identification number or any other number as may be required by the department.
- (d) Information as may reasonably be required by the department to enable it to determine whether the vehicle is lawfully entitled to identification.

§ 38041. Application for Identification: Motorcycle

Application for the original identification of a motorcycle shall be made by the owner to the department upon the appropriate form furnished by it, and shall contain:

- (a) The true, full name, business or residence and mailing address, and the driver's license or identification card number, if any, of the owner and the legal owner, if any.
- (b) The name of the county in which the owner resides.
- (c) A description of the motorcycle including the following data insofar as it may exist:
 - (1) The make and type of body.
 - (2) The motor and frame numbers recorded exactly as stamped on the engine and frame, respectively, by the manufacturer, and any other identifying number of the motorcycle as may be required by the department.
 - (3) The date first sold by a manufacturer or dealer to a consumer.
- (d) Such information as may reasonably be required by the department to enable it to determine whether the vehicle is lawfully entitled to identification.
- (e) The department shall maintain a cross-index file of motor and frame numbers identified with it.

The application shall be accompanied by a tracing, tape lift, or photograph of the motor or frame numbers, or where the facsimile of the motor or frame numbers cannot be obtained, a verification of the numbers shall be required.

§ 38045. Co-Ownership of Off-Highway Vehicle

Ownership of title to an off-highway motor vehicle subject to identification under this division may be held by two (or more) coowners as provided in Section 682 of the Civil Code, except that:

- (a) A vehicle may be identified in the names of two (or more) persons as coowners in the alternative by the use of the word “or.” A vehicle so identified in the alternative shall be deemed to be held in joint tenancy. Each coowner shall be deemed to have granted to the other coowners the absolute right to dispose of the title and interest in the vehicle. Upon the death of a coowner, the interest of the decedent shall pass to the survivor as though title or interest in the vehicle was held in joint tenancy, unless a contrary intention is set forth in writing upon the application for identification.
- (b) A vehicle may be identified in the names of two (or more) persons as coowners in the alternative by the use of the word “or” and if declared in writing upon the application for identification by the applicants to be community property, or tenancy in common, shall grant to each coowner the absolute power to transfer the title or interest of the other coowners only during the lifetime of such coowners.
- (c) A vehicle may be identified in the names of two (or more) persons as coowners in the conjunctive by the use of the word “and” and shall thereafter require the signature of each coowner or his personal representative to transfer title to the vehicle, except where title to the vehicle is set forth in joint tenancy, the signature of each coowner or his personal representative shall be required only during the lifetime of the coowners, and upon death of a coowner title shall pass to the surviving coowner.
- (d) The department may adopt suitable abbreviations to appear upon the certificate of identification and certificate of ownership to designate the manner in which title to the vehicle is held if set forth by the coowners upon the application for identification.

§ 38050. Undertaking or Bond

In the absence of the regularly required supporting evidence of ownership upon application for identification or transfer of a vehicle, the department may accept an undertaking or bond which shall be conditioned to protect the department and all officers and employees thereof and any subsequent purchaser of the vehicle, any person acquiring a lien or security interest thereon, or the successor in interest of such purchaser or person against any loss or damage on account of any defect in or undisclosed claim upon the right, title, and interest of the applicant or other person in and to the vehicle.

§ 38055. Return and Surrender of Undertaking or Bond

In the event the vehicle is no longer identified in this state and the currently valid certificate of ownership is surrendered to the department, the bond or undertaking shall be returned and surrendered at the end of three years or prior thereto.

§ 38060. Change of Address

- (a) Whenever any person, after making application for identification of an off-highway motor vehicle subject to identification, or after the identification either as owner or legal owner, moves or acquires a new address different from the address shown in the application or upon the certificate of ownership or identification certificate, that person shall, within 10 days thereafter, notify the department of his or her old and new addresses.
- (b) Any owner having notified the department as required in subdivision (a), shall immediately mark out the former on the face of the certificate and write with pen and ink or type the new on the face of the certificate immediately below the former address and initial the entry.

ARTICLE 3. Evidences of Identification

§ 38070. Issuance of Certificate of Ownership and Identification Certificate

The department, upon identifying an off-highway motor vehicle subject to identification, shall issue a certificate of ownership to the legal owner and an identification certificate to the owner, or both to the owner if there is no legal owner.

§ 38075. Contents of Identification Certificate

- (a) The identification certificate shall contain upon the face thereof the date issued, the name and residence or business or mailing address of the owner and of the legal owner, if any, the identification number to the vehicle, and a description of the vehicle as complete as that required in the application for the identification of a vehicle.
- (b) The director may modify the form, arrangement, and information appearing on the face of the identification certificate and may provide for standardization and abbreviation of fictitious or firm names thereon whenever he finds that the efficiency of the department will be promoted thereby, except that general delivery or post office box numbers shall not be permitted as the address of the identified owner unless there is no other address.

§ 38076. Contents of Certificate of Ownership

The certificate of ownership shall contain:

- (a) Not less than the information required upon the face of the identification certificate.
- (b) Provision for notice to the department of a transfer of the title or interest of the owner or legal owner.
- (c) Provision for application for transfer of identification by the transferee.

§ 38080. Use and Display on Vehicles of Copies of Report of Sale Form and Identification Devices

- (a) The department may authorize, under Section 4456, dealers licensed under Article 1 (commencing with Section 11700) of Chapter 4 of Division 5 to use numbered copies of the report-of-sale form and corresponding temporary identification devices upon off-highway motor vehicles subject to identification that they sell.
- (b) Off-highway motor vehicles subject to identification that are purchased from dealers not required to be licensed under Article 1 (commencing with Section 11700) of Chapter 4 of Division 5, or that are specially constructed by the owner or owners, may be operated off-highway, as provided by this division, without an identification plate or device or identification certificate, provided a receipt or other suitable device issued by the department is displayed upon the vehicle evidencing an application has been made and appropriate fees paid pursuant to this division, until the identification plate or device and identification certificate are received from the department.

§ 38085. Identification Certificate Kept with Vehicle

- (a) Every owner upon receipt of an identification certificate shall maintain the same or a facsimile copy thereof with the vehicle for which it is issued at all times when the vehicle is operated or transported.
- (b) The provisions of this section do not apply when an identification certificate is removed from the vehicle for the purpose of application for renewal or transfer of identification.

§ 38087. Special Permits for Manufacturers, Dealers, and Distributors

- (a) Upon payment of the fees specified in Section 38231, the department may issue to manufacturers, dealers, distributors, or their agents, a special permit to operate or use for the purpose of delivery, demonstration, or display, off-highway motor vehicles otherwise required to be identified under this division.

- (b) Special permits issued pursuant to this section shall expire at midnight on the 30th day of June in the second calendar year following the year of issuance of such permit.

§ 38087.5. Special Permits for Nonresidents

- (a) Upon payment of the fee specified in Section 38231.5, the Department of Parks and Recreation may issue to a nonresident of this state a special permit to operate an off-highway motor vehicle otherwise required to be identified under this chapter.
- (b) Special permits issued under this section shall expire on December 31 in the year of their issuance.

§ 38088. Motorcycle Used in “Closed Course” Racing

- (a) Upon payment of the fee specified in Section 38232, the department shall issue to the owner of a motorcycle, which the owner has certified as being used exclusively in racing events on a closed course, a special transportation identification device for the purpose of identifying the motorcycle while it is being transported upon a highway to and from racing events on a closed course. Such device may be either a plate or a sticker, whichever is determined by the department to be the most appropriate.
- (b) Such device is nonrenewable, nontransferable, and becomes invalid when the vehicle for which it was issued is sold or dismantled.
- (c) A certificate of ownership may not be issued in conjunction with a special transportation identification device.

§ 38090. Stolen, Lost, or Damaged Certificate of Ownership

If any identification certificate or identification plate or device is stolen, lost, mutilated or illegible, the owner of the vehicle for which the same was issued, as shown by the records of the department, shall immediately make application for and may, upon furnishing information satisfactory to the department, obtain a duplicate or substitute or a new identification under a new number, as determined to be most advisable by the department. An application for a duplicate identification certificate is not required in conjunction with any other application.

§ 38095. Stolen, Lost, or Damaged Certificate of Ownership

If any certificate of ownership is stolen, lost, mutilated or illegible, the legal owner or, if none, the owner of the vehicle for which the same was issued as shown by the records of the department shall immediately make application for and may, upon furnishing information satisfactory to the department, obtain a duplicate.

§ 38100. Applicability of Registration Provisions

The provisions of Sections 4458, 4460, 4461, 4462, 4463, and 4464 shall be fully applicable to motor vehicles identified under this division and the terms “identification” and “identification certificate” shall have the same meaning as the terms “registration” and “registration card,” respectively, as used in those sections.

ARTICLE 4. Renewal of Identification**§ 38110. Certificates of Ownership**

Certificates of ownership shall not be renewed but shall remain valid until suspended, revoked, or canceled by the department for cause or upon transfer of any interest shown therein.

§ 38115. Expiration Date

Every motor vehicle identification and identification certificate issued pursuant to this division shall expire at midnight on the 30th day of June in the second calendar year following the year of issuance of such certificate. The department may upon payment of the proper fees renew such identification.

§ 38120. Application for Renewal

- (a) Application for renewal of identification of off-highway motor vehicles subject to identification shall be made by the owner not later than midnight of the 30th day of June of the expiration year. The application shall contain the true, full name and driver's license or identification card number, if any, of the owner.
- (b) Whenever any application for identification or transfer of ownership of an off-highway motor vehicle subject to identification is filed with the department between June 1 and June 30 of the year of expiration, the application shall be accompanied by the full renewal fees in addition to any other fees then due and payable.
- (c) Whenever an application for identification or transfer of ownership of an off-highway motor vehicle subject to identification is filed with the department between January 1 and May 31 of the year of expiration, the application may be accompanied by full renewal fees in addition to any other fees then due and payable, which renewal fees shall be for the two-year period following June 30th of the year in which paid.

§ 38121. Certification of Nonoperation

- (a) Prior to the expiration of the identification of an off-highway motor vehicle, if that identification is not to be renewed prior to its expiration, the owner of the vehicle

shall file, under penalty of perjury, a certification that the vehicle will not be operated, used, or transported on public property or private property in a manner so as to subject the vehicle to identification during the subsequent identification period without first making an application for identification of the vehicle, including full payment of all fees. The certification of nonoperation is valid until the identification is renewed under subdivision (c).

- (b) Each certification of nonoperation filed pursuant to subdivision (a) shall be accompanied by a filing fee of fifteen dollars (\$15).
- (c) An application for renewal of identification, whether or not accompanied by an application for transfer of title to, or any interest in, the vehicle, shall be submitted to the department with payment of the required fees for the current identification period and without penalty for delinquent payment of fees imposed under this code if the department receives the application on or before the date the vehicle is first operated, used, or transported on public property or private property in a manner so as to subject the vehicle to identification and certification of nonoperation required pursuant to subdivision (a).
- (d) A certification of nonoperation is not required to be filed pursuant to subdivision (a) for a vehicle on which the identification expires while being held as inventory by a dealer or lessor-retailer.

§ 38125. Stolen or Embezzled Vehicles

Whenever by reason of the theft or embezzlement of an off-highway motor vehicle subject to identification the owner or legal owner is not in possession of the vehicle at the time penalties accrue for failure to obtain identification, or renewal thereof, the owner or legal owner may secure the identification or renewal of the identification of the vehicle within 20 days after its recovery upon filing an affidavit setting forth the circumstances of the theft or embezzlement if the theft or embezzlement of the vehicle has been reported pursuant to provisions of this code, without penalty for delinquent payment of fees imposed under this division.

§ 38130. Operation Pending Renewal

When application for identification of an off-highway motor vehicle subject to identification has been made as required by this division, the vehicle may be operated pursuant to this division until the new indicia of current identification have been received from the department on condition that there be displayed on the vehicle the identification plate or device and validating device, if any, issued to the vehicle for the previous identification term.

§ 38135. Validation of Certificate

The department may, upon renewing of an identification of off-highway motor vehicles subject to identification, issue a new identification certificate or may endorse or authorize the endorsement of a receipt or validation upon payment of the required fees. The receipt or validation to be stamped upon the identification certificate last issued for the vehicle during the preceding period, or upon a potential identification certificate issued near the close of the preceding period, which identification certificate so endorsed or validated shall constitute the identification certificate for the ensuing two-year period. If the identification certificate and potential identification certificate are unavailable, a fee as specified in Section 38260 shall not be paid.

ARTICLE 5. Refusal of Identification

§ 38145. Grounds Requiring Refusal of Identification

The department shall refuse the identification or renewal or transfer of identification of an off-highway motor vehicle subject to identification upon any of the following grounds:

- (a) That the application contains any false or fraudulent statement.
- (b) That the required fee has not been paid.

§ 38150. Grounds Permitting Refusal of Identification

The department may refuse the identification or renewal or transfer of identification of an off-highway motor vehicle subject to identification in any of the following circumstances:

- (a) If the department is satisfied that the applicant is not entitled thereto under this code.
- (b) If the applicant has failed to furnish the department with information required in the application or reasonable additional information required by the department.
- (c) If the department determines that the applicant has made or permitted unlawful use of any identification certificate, certificate of ownership, identification plates, or other identifying indicia.

ARTICLE 6. Identification Plate or Device

§ 38160. Issuance of Identification Plates

The department, upon identifying an off-highway motor vehicle subject to identification, shall issue to the owner a suitable identification plate or device which is capable of being attached to the vehicle in such a manner so as to not endanger the operator or passengers

of the vehicle, and which shall identify the vehicle for which it is issued for the period of its validity.

§ 38165. Design of Identification Plates

- (a) The department shall determine the size, color, and letters or number of the plate or device issued pursuant to this division and the life of the series of plate or device issued, but in no event less than six years. The design of the plate or device shall have the identification number as the most prominent feature of the device. During the intervening identification periods for which the plate or device is issued, the department shall issue a tab, sticker, or other suitable device to indicate the term for which such plate or device will be valid.
- (b) On or before July 1, 2009, the department, in conjunction with the Division of Off-Highway Motor Vehicle Recreation of the Department of Parks and Recreation, shall report to the Assembly Committee on Water, Parks and Wildlife and the Senate Committee on Natural Resources and Water, regarding recommendations to improve the identification of off-highway motor vehicles. At a minimum, the report shall examine the benefits and challenges of all of the following:
 - (1) Using multiple identification stickers for each vehicle.
 - (2) Using large-print identifying numbers or letters.
 - (3) Various identifying devices, such as license plates and stickers.
 - (4) Requiring license plates or other device alternatives for certain off-highway vehicle types.
 - (5) Including a unique number for special nonresident permits issued under Section 38087.5.
- (c) In preparing the report, the department and the Division of Off-Highway Motor Vehicle Recreation shall work with vehicle manufacturers to evaluate feasibility.

§ 38170. Display of Identification Plates

- (a) Every off-highway motor vehicle subject to identification shall have displayed upon it the identification number assigned to the vehicle for which it is issued, together with the word “California” or the abbreviation “CAL” and the year number for which it is issued or a suitable device issued by the department for validation purposes, which device shall contain the year for which it is issued.
- (b) The identification plate or device shall at all times be securely fastened to the vehicle for which it is issued and shall be mounted or affixed in a position to be clearly

visible, and shall be maintained in a condition so as to be clearly legible. No covering shall be used on the identification plate or device.

- (c) All identification plates or devices issued on or after January 1, 1996, shall be displayed as follows:
- (1) On the left fork leg of a motorcycle, either horizontal or vertical, and shall be visible from the left side of the motorcycle.
 - (2) On the left quadrant of the metal frame member of sand rails, rail-type buggies, and dune buggies, visible from the rear of the vehicle.
 - (3) On the left rear quadrant on permanent plastic or metal frame members of all-terrain vehicles, visible to outside inspections.
 - (4) On the left tunnel on the back quadrant of snowmobiles.

ARTICLE 7. Dismantling of Off-Highway Motor Vehicles

§ 38180. Application of Other Provisions Pertaining to Dismantling of Vehicles

Chapter 3 (commencing with Section 11500) of Division 5 shall be applicable to off-highway motor vehicles subject to identification, except as provided in this article.

§ 38185. Subsequent Identification of Previously Dismantled or Salvaged Vehicles

No off-highway motor vehicle subject to identification which has been reported dismantled or sold as salvage may be subsequently identified until it has been inspected by the department.

ARTICLE 8. Transfers of Title or Interest

§ 38195. Transfer of Title to Off-Highway Vehicles

The provisions of Chapter 2 (commencing with Section 5600) of Division 3 shall be applicable to off-highway motor vehicles subject to identification, and the terms “registration,” “registration card,” and “registered” as used therein, shall apply to the terms “identification,” “identification certificate,” and “identified,” respectively, except that Sections 5901, 5902, 5903, 5904, 5906, and 6052 shall not apply.

§ 38200. Notice of Transfer by Dealers

- (a) Every licensed dealer upon transferring by sale, lease, or otherwise any off-highway motor vehicle subject to identification, whether new or used, of a type subject to

identification under this division, shall, not later than the end of the fifth calendar day thereafter, not counting the day of sale, lease, or other transfer, give written notice of the transfer to the department upon an appropriate form provided by it; but a dealer need not give the notice when selling or transferring a new unidentified off-highway motor vehicle subject to identification to another dealer.

A "sale" shall be deemed completed and consummated when the purchaser of that vehicle has paid the purchase price, or, in lieu thereof, has signed a purchase contract or security agreement, and taken physical possession or delivery of that vehicle.

- (b) Every dealer of off-highway motor vehicles subject to identification who is not licensed with the department, and who engages only in the sale of vehicles of a type not properly equipped for operation upon the highway and that are restricted to off-highway operation or use, shall comply with the provisions of Section 5900, or such regulations as the director determines are necessary to carry out the provisions of this division.

§ 38205. Application for Transfer

Whenever any person has received as transferee a properly endorsed certificate of ownership, he or she shall, within 10 days thereafter, endorse the ownership certificate as required and forward the ownership certificate with the proper transfer fee and, if required under Section 38120, any other fee due and thereby make application for transfer of identification. The certificate of ownership shall contain a space for the applicant's driver's license or identification card number, and the applicant shall furnish that number, if any, in the space provided.

§ 38210. Notice of Transfer to Dealer Not Required

When the transferee of an off-highway motor vehicle subject to identification is a dealer who holds such vehicle for resale, the dealer is not required to make application for transfer, but upon transferring his title or interest to another person he shall comply with this division.

§ 38211. Payment of Use Tax

- (a) The department shall withhold identification of or the transfer of ownership of any vehicle subject to identification under this division until the applicant pays to the department the use tax measured by the sales price of the vehicle as required by the Sales and Use Tax Law, together with penalty, if any, unless the purchaser presents evidence on a form prescribed by the State Board of Equalization that sales tax will be paid by the seller or that use tax has been collected by the seller or that the State Board of Equalization finds that no use tax is due. If the applicant so desires, he may pay the use tax and penalty, if any, to the department so as to secure immediate action

upon his application for identification or transfer of ownership, and thereafter he may apply through the Department of Motor Vehicles to the State Board of Equalization under the provisions of the Sales and Use Tax Law for a refund of the amount so paid.

- (b) The department shall transmit to the State Board of Equalization all collections of use tax and penalty made under this section. This transmittal shall be made at least monthly, accompanied by a schedule in such form as the department and board may prescribe.
- (c) The State Board of Equalization shall reimburse the department for its costs incurred in carrying out the provisions of this section. Such reimbursement shall be effected under agreement between the agencies, approved by the Department of Finance.
- (d) In computing any use tax or penalty thereon under the provisions of this section dollar fractions shall be disregarded in the manner specified in Section 9559 of this code. Payment of tax and penalty on this basis shall be deemed full compliance with the requirements of the Sales and Use Tax Law insofar as they are applicable to the use of vehicles to which this section relates.

ARTICLE 9. Identification Fees

§ 38225. Off-Highway Motor Vehicle: Identification and Service Fee

- (a) A service fee of seven dollars (\$7) shall be paid to the department for the issuance or renewal of identification of off-highway motor vehicles subject to identification, except as expressly exempted under this division.
- (b) In addition to the service fee required by subdivision (a), a special fee of thirty-three dollars (\$33) shall be paid at the time of payment of the service fee for the issuance or renewal of an identification plate or device.
- (c) All money transferred pursuant to Section 8352.6 of the Revenue and Taxation Code, all fees received by the department pursuant to subdivision (b), and all day use, overnight use, or annual or biennial use fees for state vehicular recreation areas received by the Department of Parks and Recreation shall be deposited in the Off-Highway Vehicle Trust Fund, which is hereby created. There shall be a separate reporting of special fee revenues by vehicle type, including four-wheeled vehicles, all-terrain vehicles, motorcycles, and snowmobiles. All money shall be deposited in the fund, and, upon appropriation by the Legislature, shall be allocated according to Section 5090.61 of the Public Resources Code.
- (d) Any money temporarily transferred by the Legislature from the Off-Highway Vehicle Trust Fund to the General Fund shall be reimbursed, without interest, by the Legislature within two fiscal years of the transfer.

- (e) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date. Any unencumbered funds remaining in the Off-Highway Vehicle Trust Fund on January 1, 2018, shall be transferred to the General Fund.

§ 38225.4. Additional Service Fee

In addition to the service fees specified in subdivision (a) of Section 38225, as amended by Section 6 of Chapter 964 of the Statutes of 1992, a fee of three dollars (\$3) shall be paid at the time of issuance or renewal of identification of off-highway motor vehicles subject to identification, except as expressly exempted under this division. The department shall deposit the fee received under this section in the Motor Vehicle Account in the State Transportation Fund. The money deposited in the account pursuant to this section shall be available, upon appropriation by the Legislature, for expenditure to offset the costs of maintaining the uniformed field strength of the Department of the California Highway Patrol.

§ 38225.5. Additional Service Fee

In addition to the service fees specified in Section 38225, a fee of three dollars (\$3) shall be paid at the time of issuance or renewal of identification of off-highway vehicles subject to identification, except as expressly exempted under this division. The department shall deposit the fee received under this section in the Motor Vehicle Account in the State Transportation Fund. The money deposited in the account pursuant to this section shall be available, upon appropriation by the Legislature, for expenditure to offset the costs of increasing the uniformed field strength of the Department of the California Highway Patrol beyond its 1994 staffing level and those costs associated with maintaining this new level of uniformed field strength and carrying out those duties specified in subdivision (a) of Section 830.2 of the Penal Code.⁷

§ 38230. Additional Fee: In Lieu Tax

In addition to the fees imposed by Section 38225, there shall be paid a four-dollar (\$4) fee for the issuance or renewal of identification for every off-highway motor vehicle

⁷ Penal Code § 830.2. The following persons are peace officers whose authority extends to any place in the state:

(a) Any member of the Department of the California Highway Patrol including those members designated under subdivision (a) of Section 2250.1 of the Vehicle Code, provided that the primary duty of the peace officer is the enforcement of any law relating to the use or operation of vehicles upon the highways, or laws pertaining to the provision of police services for the protection of state officers, state properties, and the occupants of state properties, or both, as set forth in the Vehicle Code and Government Code.

subject to identification. The fee imposed by this section is in lieu of all taxes according to value levied for state or local purposes.

§ 38231. Fees for Special Permits

The fees for a special permit issued under Section 38087 shall be the prevailing identification fees as set forth in Sections 38225 and 38230 and shall be deposited and distributed as are identification fees under this chapter.

§ 38231.5. Fees for Nonresident Permits

- (a) The fee for a special permit issued under Section 38087.5 shall be not less than twenty dollars (\$20), as established by the Department of Parks and Recreation. The Department of Parks and Recreation may adjust the special permit fee for a permit issued to a nonresident of this state under Section 38087.5, as necessary, to recover the costs of this program. After deducting its administrative and vendor costs, the Department of Parks and Recreation shall deposit the fees received under this section in the Off-Highway Vehicle Trust Fund. Money in the fund shall be allocated, upon appropriation, as provided in Sections 5090.50 and 5090.64 of the Public Resources Code.
- (b) The Department of Parks and Recreation shall print the special permits required by Section 38087.5 and shall supervise the sale of those permits throughout the state.
- (c) The Department of Parks and Recreation shall either distribute and sell the special permits directly or contract with vendors according to rules and regulations established by that department. The vendors shall receive a commission in an amount not to exceed 5 percent of the fee imposed pursuant to subdivision (a) for each special permit sold. The Department of Parks and Recreation may solicit the participation of qualified retail commercial enterprises engaged in the sale or rental of off-highway vehicles, equipment, accessories, or supplies to act as authorized vendors of the special permits and may authorize local and federal agencies that provide off-highway vehicle opportunities to act as authorized vendors of the special permits.

§ 38232. Fee: Special Transportation Identification

A special fee of fifteen dollars (\$15) shall be paid to the department for the issuance of a special transportation identification device issued pursuant to Section 38088 and shall be deposited in the Motor Vehicle Account in the Transportation Tax Fund. The fee is in lieu of the fees provided in Section 38225.

§ 38235. Report and Deposit of In Lieu Fees

All money collected by the department under Section 38230 shall be reported monthly to the Controller and at the same time be deposited in the State Treasury to the credit of the Off-Highway License Fee Fund, which is hereby created.

§ 38240. Allocation and Use of In Lieu Fees

- (a) The Controller shall allocate the fees collected under Section 38230 in July and January of each fiscal year to cities and counties based upon the proportional estimated off-highway motor vehicle use and related activity within the respective jurisdictions pursuant to the report described in subdivision (d) of Section 5090.15 of the Public Resources Code.
- (b) The funds collected under Section 38230 shall be used for the purposes set forth in Sections 5090.50 and 5090.64 of the Public Resources Code.
- (c) In addition to the purposes set forth in subdivision (b), funds received by a city or county pursuant to this section may be expended for facilities located outside the limits of the city or county if both of the following conditions are met:
 - (1) The funds are expended for the purposes of acquiring, developing, and constructing trails, areas, or other facilities for the use of off-highway motor vehicles.
 - (2) The funds are expended pursuant to an agreement with the city in which the facility is located or with the county in which the facility is located if the facility is located in an unincorporated territory.
- (d) This section shall become operative on January 1, 2006.

§ 38241. Estimation of Population: Department of Finance [repeals on 1-1-06]

Any city, county, or city and county may apply to the population research unit of the Department of Finance to estimate its population. The department may make the estimate if in the opinion of the department there is available adequate information upon which to base the estimate. Not less than 25 days nor more than 30 days after the completion of the estimate, the Department of Finance shall file a certified copy thereof with the Controller if the estimate is greater than the current certified population. This certification may be made once each fiscal year.

All payments under Section 38240 for any allocation subsequent to the filing of the estimate shall be based upon the population so estimated until a subsequent certification is made by the Department of Finance or a subsequent federal decennial census is made.

Population changes based on a federal or state special census or estimate validated by the Department of Finance shall be accepted by the Controller only if certified to him or her at the request of the Department of Finance. The request shall be made only if the census or estimate is greater than the current certified population and shall become effective on the first day of the month following receipt of the certification.

The Department of Finance may assess a reasonable charge, not to exceed the actual cost thereof, for the preparation of population estimates pursuant to this section, which is a proper charge against the city, county or city and county applying therefore. The amount received shall be deposited in the State Treasury as a reimbursement to be credited to the appropriation from which the expenditure is made.

As of May 1, 1988, any population estimate prepared by the Department of Finance pursuant to Section 2227 of the Revenue and Taxation Code may be used for all purposes of this section unless a written request not to certify is received by the department from the city, city and county, or county within 25 days of completion of the estimate.

This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

§ 38245. Delinquency of Fees

Whenever an off-highway motor vehicle subject to identification is operated or transported in this state without the fees required by this division having first been paid, the fee is delinquent.

§ 38246. Penalties

- (a) A penalty shall be added upon any application for renewal of identification made on or after the day following the expiration date, except as provided in Section 4605, 38121, or 38247.
- (b) If the fee specified in subdivision (a) or (b) of Section 38255 is not paid within 10 days after the fee becomes delinquent, a penalty shall be assessed.
- (c) If renewal fee penalties have not accrued and the ownership of the vehicle is transferred, the transferee has 20 days from the date of transfer to pay the identification fees that become due without payment of any penalties that would otherwise be required under subdivision (a) or to file a certificate of nonoperation pursuant to subdivision (a) of Section 38121, if the vehicle will not be operated, used, or transported on public property or private property in a manner so as to subject the vehicle to identification during the subsequent identification period without first making application for identification of the vehicle, including full payment of all fees.

- (d) Except as otherwise provided in this section, if any fee is not paid within 20 days after the fee becomes delinquent, a penalty shall be assessed.

§ 38247. Waiver of Penalties and Registration Fees

- (a) When a transferee or purchaser of a vehicle applies for transfer of identification, as provided in Section 38025, and it is determined by the department that penalties accrued prior to the purchase of the vehicle, and that the transferee or purchaser was not cognizant of the nonpayment of the fees for identification for the current or prior identification years, the department may waive the identification penalties upon payment of the fees for identification due.
- (b) Other provisions of this code notwithstanding, the director may at his discretion investigate into the circumstances of any application for identification to ascertain if penalties had accrued through no fault or intent of the owner. Provided such circumstances prevail, the director may waive any penalties upon payment of the fees for identification then due.
- (c) When a transferee or purchaser of a vehicle applies for transfer of identification of a vehicle, and it is determined by the department that fees for identification of the vehicle for any year are unpaid and due, that such fees became due prior to the purchase of the vehicle by the transferee or purchaser and that the transferee or purchaser was not cognizant of the fact that such fees were unpaid and due, the department may waive such fees and any penalty thereon when the identification fees due for the vehicle for the current year are paid.
- (d) Upon the transfer of a vehicle for which fees for identification and any penalties thereon are unpaid and due, such fees and penalties are, notwithstanding the provisions of Article 6 (commencing with Section 9800) of this chapter, the personal debt of the transferor of the vehicle who did not pay such fees and penalties when they became due or accrued. Such fees and penalties may be collected by the department in an appropriate civil action if the department has waived such fees and penalties pursuant to subdivision (c).

§ 38250. Delinquency of Transfer Fees

Whenever any person has received as transferee a properly endorsed certificate of ownership and the transfer fee has not been paid as required by this division within 10 days, the fee is delinquent.

§ 38255. Transfer Application and Fees

Upon application for transfer of ownership or any interest of an owner, or legal owner in or to any off-highway motor vehicle identified under this division, there shall be paid the following fees:

- (a) For a transfer by the owner \$15
- (b) For a transfer by the legal owner \$15
- (c) When application is presented showing a transfer
by both the owner and legal owner \$15

§ 38260. Fees for Duplicate Certificates, Plates, Stickers

Upon application for a duplicate ownership certificate or identification certificate, or a duplicate or substitute identification plate or device, or any other tabs, stickers, or devices, there shall be paid a fee in the amount of fifteen dollars (\$15).

§ 38265. Penalty Fee for Delinquency

- (a) The penalty for delinquency in respect to any transfer shall be fifteen dollars (\$15), and shall apply only to the last transfer.
- (b) The penalty for delinquency in respect to the fees imposed by Sections 38225 and 38230 shall be equal to one-half the fee after it has been computed.

CHAPTER 5. Off-Highway Vehicle Operating Rules

ARTICLE 1. Traffic Signs, Signals, and Markings

§ 38280. Federal, State, and Local Authority

Federal, state, or local authorities having jurisdiction over public lands may place or cause to be placed and maintained, such appropriate signs, signals and other traffic control devices as may be necessary to properly indicate and carry out any provision of law or any duly adopted regulation of such governmental authority or to warn or guide traffic.

§ 38285. Conformity to Uniform Standards

Only those signs, signals, markings, or devices that conform to the uniform standards and specifications adopted by the Department of Parks and Recreation, with the approval of the Off-Highway Motor Vehicle Recreation Commission, shall be placed as provided in Section 38280. Special signs, signals, markings, or devices may be used on a temporary basis for purposes of directing traffic on and at sanctioned events conducted on public lands with permission of the agency having administrative jurisdiction over such lands.

§ 38286. Organized Racing Events

The provisions of Article 3 (commencing with Section 38305), Article 4 (commencing with Section 38312), Article 5 (commencing with Section 38316), Section 38319 of this chapter, and subdivision (h) of Section 38370 shall not apply to a motor vehicle being operated in an organized racing event that is conducted under the auspices of a recognized sanctioning body or by permit issued by the governmental authority having jurisdiction.

§ 38300. Unlawful to Disobey Sign, Signal, or Traffic Control Device

It is unlawful for the driver of any vehicle to disobey any sign, signal, or traffic control device placed or maintained pursuant to Section 38280.

§ 38301. Unlawful to Violate Special Regulations for Public Lands; Penalties

- (a) It is unlawful to operate a vehicle in violation of special regulations which have been promulgated by the governmental agency having jurisdiction over public lands, including, but not limited to, regulations governing access, routes of travel, plants, wildlife, wildlife habitat, water resources, and historical sites.

- (b) A person who operates a motor vehicle in an area closed to that vehicle is guilty of a public offense and shall be punished as follows:
- (1) Except as provided in paragraphs (2) and (3), the offense is an infraction punishable by a fine not exceeding fifty dollars (\$50).
 - (2) For a second offense committed within seven years after a prior violation for which there was a conviction punishable under paragraph (1), the offense is an infraction punishable by a fine not exceeding seventy-five dollars (\$75).
 - (3) For a third or subsequent offense committed within seven years after two or more prior violations for which there were convictions punishable under this section, the offense is punishable by a fine not exceeding one hundred fifty dollars (\$150). In addition to the fine, the court may assess costs sufficient to repair property damage resulting from the violation.

§ 38301.3. Unlawful Vehicle Entry into Wilderness Areas: Penalties

Notwithstanding subdivision (d) of Section 5008 of the Public Resources Code, or any other provision of state law, and to the extent authorized under federal law, a person who violates a state or federal regulation that prohibits entry of a motor vehicle into all or portions of an area designated as a federal or state wilderness area is guilty of a public offense and shall be punished as follows:

- (a) Except as provided in subdivisions (b) and (c), the offense is an infraction punishable by a fine not exceeding one hundred fifty dollars (\$150).
- (b) For a second offense committed within seven years after a prior violation for which there was a conviction punishable under subdivision (a), the offense is an infraction punishable by a fine not exceeding two hundred twenty-five dollars (\$225).
- (c)
 - (1) For a third or subsequent offense committed within seven years after two or more prior violations for which there were convictions punishable under this section, the offense is a misdemeanor punishable by a fine not exceeding three hundred dollars (\$300) or by imprisonment in the county jail not exceeding 90 days, or by both that fine and imprisonment.
 - (2) In addition to the fine imposed under paragraph (1), the court may order impoundment of the vehicle used in the offense under the following conditions:
 - (A) The person convicted under this subdivision is the owner of the vehicle.
 - (B) The vehicle is subject to Section 4000 or 38010.

- (3) The period of impoundment imposed pursuant to this subdivision shall be not less than one day nor more than 30 days. The impoundment shall be at the owner's expense.

§ 38301.5. Violation of Special Regulations for Mountain Fire Districts: Penalties

Every person convicted of violating a local ordinance which is adopted by a city with a population over 2,000,000 persons pursuant to Section 38301 and which prohibits entry into all or portions of an area designated by ordinance as a mountain fire district shall be punished as follows:

- (a) Except as provided in subdivisions (b) and (c), the offense is an infraction punishable by a fine not exceeding one hundred fifty dollars (\$150).
- (b) For a second offense committed within one year of a prior violation for which there was a conviction punishable under subdivision (a), the offense is punishable as an infraction by a fine not exceeding two hundred fifty dollars (\$250).
- (c) (1) For a third or subsequent offense committed within one year of two or more prior violations for which there were convictions punishable under this section, the offense is punishable as a misdemeanor by a fine not exceeding one thousand dollars (\$1,000) or by imprisonment in the county jail not exceeding 90 days, or by both that fine and imprisonment. Additionally, the court may order impoundment of the vehicle used in the offense under the following conditions:
 - (A) The person convicted under this subdivision is the owner of the vehicle.
 - (B) The vehicle is subject to Section 38010.
- (2) The period of impoundment imposed pursuant to this subdivision shall be not less than one day nor more than 30 days. The impoundment shall be at the owner's expense.

§ 38302. Unlawful to Place Unauthorized Signs

It is unlawful for any person to place or erect any sign, signal, or traffic control device for off-highway traffic upon public lands unless authorized by law.

ARTICLE 2. Operating Controls

§ 38304. Ability to Reach and Operate Controls

The operator of an off-highway motor vehicle shall be able to reach and operate all controls necessary to safely operate the vehicle.

ARTICLE 3. Speed Laws

§ 38305. Basic Speed Law

No person shall drive an off-highway motor vehicle at a speed greater than is reasonable or prudent and in no event at a speed which endangers the safety of other persons or property.

§ 38310. Prima Facie Speed Limit

The prima facie speed limit within 50 feet of any campground, campsite, or concentration of people or animals shall be 15 miles per hour unless changed as authorized by this code and, if so changed, only when signs have been erected giving notice thereof.

ARTICLE 4. Turning and Starting

§ 38312. Starting Parked Vehicles

No person shall place in motion an off-highway motor vehicle that is stopped, standing, or parked until such movement can be made with reasonable safety.

§ 38314. Turning Movements

No person shall turn an off-highway motor vehicle from a direct course or move right or left until such movement can be made with reasonable safety.

ARTICLE 5. Reckless Driving

§ 38316. Reckless Driving

- (a) It is unlawful for any person to drive any off-highway motor vehicle with a willful and wanton disregard for the safety of other persons or property.
- (b) Any person who violates this section shall, upon conviction thereof, be punished by imprisonment in the county jail for not less than five days nor more than 90 days or by fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) or by both such fine and imprisonment, except as provided in Section 38317.

§ 38317. Reckless Driving Causing Bodily Injury

Whenever reckless driving of an off-highway motor vehicle proximately causes bodily injury to any person, the person driving the vehicle shall, upon conviction thereof, be punished by imprisonment in the county jail for not less than 30 days nor more than six

months or by fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or by both such fine and imprisonment.

§ 38318. Throwing Substances at Off-Highway Motor Vehicles

- (a) Any person who throws any substance at an off-highway motor vehicle or occupant thereof is guilty of a misdemeanor and shall be punished pursuant to Section 42002 by a fine of not more than one thousand dollars (\$1,000) or by imprisonment in the county jail for not more than six months, or by both the fine and imprisonment.
- (b) Any person who, with intent to do great bodily injury, maliciously and willfully throws or projects any rock, brick, bottle, metal, or other missile, projects any other substance capable of doing serious bodily harm, or discharges a firearm at an off-highway motor vehicle or occupant thereof is guilty of a felony.

§ 38318.5. Malicious Acts

- (a) Any person who maliciously removes or alters trail, danger, or directional markers or signs provided for the safety or guidance of off-highway motor vehicles is guilty of a misdemeanor and shall be punished pursuant to Section 42002 by a fine of not more than one thousand dollars (\$1,000) or by imprisonment in the county jail for not more than six months, or by both the fine and imprisonment.
- (b) Any person who, with intent to do great bodily injury (1) proximately causes great bodily injury to any person as a result of acts prohibited by subdivision (a), or (2) erects or places any cable, chain, rope, fishing line, or other similar material which is unmarked or intentionally placed, or both, for malicious purpose is guilty of a felony.
- (c) Any person convicted under subdivision (a) or (b) shall, if the violation proximately causes one or more adverse environmental impacts, also be liable in civil damages for the cost of mitigation, restoration or repair thereof, in addition to any other liability imposed by law.

ARTICLE 6. Littering and Environmental Protection

§ 38319. Operation Causing Damage

No person shall operate, nor shall an owner permit the operation of, an off-highway motor vehicle in a manner likely to cause malicious or unnecessary damage to the land, wildlife, wildlife habitat or vegetative resources.

§ 38320. Throwing, Depositing, or Dumping Matter

- (a) No person shall throw or deposit, nor shall the registered owner or the driver, if such owner is not then present in the vehicle, aid or abet in the throwing or depositing, upon any area, public or private, any bottle, can, garbage, glass, nail, offal, paper, wire, any substance likely to injure or kill wild or domestic animal or plant life or damage traffic using such area, or any noisome, nauseous or offensive matter of any kind.
- (b) No person shall place, deposit or dump, or cause to be placed, deposited or dumped, any rocks or dirt in or upon any area, public or private, without the consent of the property owner or public agency having jurisdiction over the area.
- (c) Any person who violates this section shall, upon conviction thereof, be punished by a fine of not less than fifty dollars (\$50). No part of such fine shall be suspended. The court may permit the fine required by this section to be paid in installments if the court determines that the defendant is unable to pay the fine in one lump sum.

§ 38321. Removal of Material

- (a) Any person who drops, dumps, deposits, places, or throws, or causes or permits to be dropped, dumped, deposited, placed, or thrown, upon any area, any material described in Section 38320, shall immediately remove the material or cause it to be removed.
- (b) If such person fails to comply with the provisions of this section, the governmental agency responsible for the maintenance of the area, or the property owner of the land on which the material has been deposited, may remove such material and collect, by civil action, if necessary, the actual cost of the removal operation in addition to any other damages authorized by law from the person who did not comply with the requirements of this section.

CHAPTER 6. EQUIPMENT OF OFF-HIGHWAY VEHICLES

ARTICLE 1. General Provisions

§ 38325. Applicability of Provisions

The provisions of this chapter shall apply to all off-highway motor vehicles, as defined in Section 38006, when operated in areas in which this division has application.

§ 38330. Vehicle Not Equipped or Unsafe

It is unlawful to operate any vehicle or combination of vehicles which is in an unsafe condition, which is not equipped as required by this chapter or the equipment regulations of the governmental agency having jurisdiction over public lands, or which is not safely loaded.

ARTICLE 2. Lighting Equipment

§ 38335. Headlamps

When operated from one-half hour after sunset to one-half hour before sunrise, each motor vehicle shall be equipped with at least one lighted white headlamp directed toward the front of the vehicle. Such lamp shall be of an intensity sufficient to reveal persons and vehicles at a distance of at least 200 feet.

§ 38345. Taillamps

When operated from one-half hour after sunset to one-half hour before sunrise, each motor vehicle which is not in combination with any other vehicle shall be equipped with at least one lighted red taillamp which shall be clearly visible from the rear.

- (a) Every such vehicle or vehicles at the end of a combination of vehicles shall be equipped with one lighted red taillamp when operated from one-half hour after sunset to one-half hour before sunrise.

§ 38346. Red or Blue Lights Prohibited

A person shall not display a flashing or steady burning red or blue warning light on an off-highway motor vehicle except as permitted by Section 21055 or when an extreme hazard exists.

ARTICLE 3. Brakes

§ 38355. Service Brakes Required

- (a) Except as provided in subdivision (b), every motor vehicle shall be equipped with a service brake system which is in good working order and adequate to control the movement of, and to stop and hold to the limit of traction of, such vehicle or combination of vehicles under all conditions of loading and upon any grade on which it is operated.

- (b) Any motor vehicle, such as an air-cushioned vehicle, which is unable to comply with the requirements of this section due to the method of operation, is exempt, if the operator is able to exercise safe control over the movement of such vehicle.

ARTICLE 4. Equipment

§ 38365. Mufflers and Exhaust Systems

- (a) Every off-highway motor vehicle, as defined in Section 38006, shall at all times be equipped with an adequate muffler in constant operation and properly maintained so as to meet the requirements of Section 38370, and no muffler or exhaust system shall be equipped with a cutout, bypass, or similar device.
- (b) The provisions of subdivision (a) shall not be applicable to vehicles being operated off the highways in an organized racing or competitive event upon a closed course or in a hill climb or drag race, which is conducted under the auspices of a recognized sanctioning body or by permit issued by the local governmental authority having jurisdiction.

§ 38366. Spark Arrester

- (a) Notwithstanding Section 4442 of the Public Resources Code, and except for vehicles with mufflers as provided in Article 2 (commencing with Section 27150) of Chapter 5 of Division 12, no person shall use, operate, or allow to be used or operated, any off-highway motor vehicle, as defined in Section 38006, on any forest-covered land, brush-covered land, or grass-covered land unless the vehicle is equipped with a spark arrester maintained in effective working order.
- (b) A spark arrester affixed to the exhaust system of a vehicle subject to this section shall not be placed or mounted in such a manner as to allow flames or heat from the exhaust system to ignite any flammable material.
- (c) A spark arrester is a device constructed of nonflammable materials specifically for the purpose of removing and retaining carbon and other flammable particles over 0.0232 of an inch in size from the exhaust flow of an internal combustion engine or which is qualified and rated by the United States Forest Service.
- (d) Subdivision (a) shall not be applicable to vehicles being operated off the highway in an organized racing or competitive event upon a closed course, which is conducted under the auspices of a recognized sanctioning body and by permit issued by the fire protection authority having jurisdiction.

§ 38370. Noise Limits

- (a) The Department of Motor Vehicles shall not identify any new off-highway motor vehicle, which is subject to identification and which produces a maximum noise level that exceeds the following noise limit, at a distance of 50 feet from the centerline of travel, under test procedures established by the Department of the California Highway Patrol.
 - (1) Any such vehicle manufactured before January 1, 1973 92 dBA
 - (2) Any such vehicle manufactured on or after January 1, 1973,
and before January 1, 197588 dBA
 - (3) Any such vehicle manufactured on or after January 1, 1975,
and before January 11, 198686 dBA
 - (4) Any such vehicle manufactured on or after January 1, 1986.....82 dBA
- (b) The department may accept a dealer's certificate as proof of compliance with this section.
- (c) Test procedures for compliance with this section shall be established by the Department of the California Highway Patrol, taking into consideration the test procedures of the Society of Automotive Engineers.
- (d) No person shall sell or offer for sale any new off-highway motor vehicle which is subject to identification and which produces a maximum noise level that exceeds the noise limits in subdivision (a), and for which noise emission standards or regulations have not been adopted by the Administrator of the Environmental Protection Agency pursuant to the Federal Noise Control Act of 1972 (P.L. 92-574).
- (e) No person shall sell or offer for sale any new off-highway motor vehicle which is subject to identification and which produces a noise level that exceeds, or in any way violates, the noise emission standards or regulations adopted for such a motor vehicle by the Administrator of the Environmental Protection Agency pursuant to the Federal Noise Control Act of 1972 (P.L. 92-574).
- (f) As used in this section, the term "identify" is equivalent to the term "licensing" as used in Section 6(e)(2) of the Federal Noise Control Act of 1972 (P.L. 92-574).
- (g) Any off-highway motor vehicle, when operating pursuant to Section 38001, shall at all times be equipped with a silencer, or other device, which limits noise emissions to not more than 101 dBA if manufactured on or after January 1, 1975, or 105 dBA if manufactured before January 1, 1975, when measured from a distance of 20 inches using test procedures established by the Society of Automotive Engineers under Standard J-1287. This subdivision shall only be operative until January 1, 2003.

- (h) On and after January 1, 2003, off-highway motor vehicles, when operating pursuant to Section 38001, shall at all times be equipped with a silencer, or other device, which limits noise emissions.
 - (1) Noise emissions of competition off-highway vehicles manufactured on or after January 1, 1998, shall be limited to not more than 96 dBA, and if manufactured prior to January 1, 1998, to not more than 101 dBA, when measured from a distance of 20 inches using test procedures established by the Society of Automotive Engineers under Standard J-1287, as applicable. Noise emissions of all other off-highway vehicles shall be limited to not more than 96 dBA if manufactured on or after January 1, 1986, and not more than 101 dBA if manufactured prior to January 1, 1986, when measured from a distance of 20 inches using test procedures established by the Society of Automotive Engineers under Standard J-1287, as applicable.
 - (2) The Off-Highway Motor Vehicle Recreation Division of the Department of Parks and Recreation shall evaluate and reassess the dates specified in paragraph (1) and include the findings and recommendations in the noise report required in subdivision (o) of Section 5090.32 of the Public Resources Code.⁸
- (i) Off-highway vehicle manufacturers or their agents prior to the sale to the general public in California of any new off-highway vehicle model manufactured after January 1, 2003, shall provide to the Off-Highway Motor Vehicle Recreation Division of the California Department of Parks and Recreation rpm data needed to conduct the J-1287 test, where applicable.

§ 38375. Sirens Prohibited

- (a) An off-highway motor vehicle, except an authorized emergency vehicle, shall not be equipped with a siren.
- (b) A person driving an off-highway motor vehicle, except the driver of an authorized emergency vehicle as permitted by Section 21055, shall not use a siren.

§ 38380. Additional Equipment

- (a) Because of specialized conditions such as fire hazard, public safety or other circumstances, any local authority, or state or federal agencies having control over public lands may require that vehicles being operated off highway be equipped with additional equipment.

⁸ Note: Subdivision (o) deleted pursuant to SB 742 (effective January 1, 2008).

- (b) When such additional equipment is required in a specific location, the governmental agency having jurisdiction over that location shall insure that such regulations are posted in a manner that operators of off-highway motor vehicles using those locations will be aware of the special requirements.

ARTICLE 5. Emission Control Equipment

§ 38390. Pollution Control Device

No person shall operate or maintain in a condition of readiness for operation any off-highway motor vehicle which is required to be equipped with a motor vehicle pollution control device under Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code or with any other certified motor vehicle pollution control device required by any other state law or any rule or regulation adopted pursuant to such law, or required to be equipped with a motor vehicle pollution control device pursuant to the Clean Air Act (42 U.S.C. 1857 et seq.) and the standards and regulations promulgated thereunder, unless it is equipped with the required motor vehicle pollution control device which is correctly installed and in operating condition. No person shall disconnect, modify, or alter any such required device. Notwithstanding Section 43107 of the Health and Safety Code, this section shall apply only to off-highway motor vehicles of the 1978 or later model year.

§ 38391. Modification Devices

No person shall install, sell, offer for sale, or advertise any device, apparatus, or mechanism intended for use with, or as a part of, any required off-highway motor vehicle pollution control device or system which alters or modifies the original design or performance of any such motor vehicle pollution control device or system.

§ 38392. Imposition of Penalty for Willful Violation

When the court finds that a person has willfully violated any provision of this article, such person shall be fined the maximum amount that may be imposed for such an offense, and no part of the fine may be suspended.

“Willfully”, as used in this section, has the same meaning as the meaning of that word prescribed in Section 7 of the Penal Code.

§ 38393. Operation After Notice

No person shall operate an off-highway motor vehicle after notice by a traffic officer or other authorized public officer that such vehicle is not equipped with the required certified motor vehicle pollution control device correctly installed in operating condition,

except as may be necessary to return the vehicle to the residence or place of business of the owner or driver or to a garage, until the vehicle has been properly equipped with such a device.

§ 38394. Proof of Correction

The notice to appear issued or complaint filed for a violation of any provision of this article shall require that the person to whom the notice to appear is issued or against whom the complaint is filed produce proof of correction pursuant to Section 40150.

§ 38395. Modification Devices: Exceptions to Prohibition

This article shall not apply to an alteration, modification, or modifying device, apparatus, or mechanism found by resolution of the State Air Resources Board either:

- (a) To not reduce the effectiveness of any required off-highway motor vehicle pollution control device; or
- (b) To result in emissions from any such modified or altered off-highway vehicle which are at levels which comply with existing state or federal standards for that model year of the vehicle being modified or converted.

§ 38396. Federally Owned Off-Highway Vehicles

The provisions of this article apply to off-highway motor vehicles of the United States or its agencies, to the extent authorized by federal law.

§ 38397. Applicability

Except as provided in Section 38390, this article shall be applicable to all off-highway motor vehicles, whether or not subject to identification pursuant to this division and without limitation by the exceptions contained in Section 38001, and to all off-highway motor vehicles operated or maintained in a condition of readiness for operation on private or public property.

CHAPTER 7. All-Terrain Vehicles

§ 38500. Off-Highway Vehicle Safety Education Committee

The Off-Highway Vehicle Safety Education Committee is hereby established. The committee consists of the Commissioner of the California Highway Patrol, the Deputy Director of Parks and Recreation for Off-Highway Vehicles, the Director of Motor Vehicles, or their designees, and a member of the Off-Highway Motor Vehicle Recreation Commission appointed by the members of the commission. The committee shall receive staff assistance in its operations from the Off-Highway Motor Vehicle Recreation Division in the Department of Parks and Recreation.

§ 38500.1. Duties of Committee

The Off-Highway Vehicle Safety Education Committee shall meet periodically to perform all of the following:

- (a) Develop minimum criteria for certification as an approved all-terrain vehicle safety training organization. The criteria shall include, but not be limited to, the following:
 - (1) Curriculum and materials for training instructors to teach all-terrain vehicle operation and safety.
 - (2) Curriculum and materials for training all-terrain vehicle safety.
 - (3) Curriculum for teaching responsible use of off-highway vehicles with respect to environmental considerations, private property restrictions, off-highway vehicle operating laws, including noise and spark arrestor laws, and prohibitions against operating off-highway vehicles under the influence of alcohol or drugs.
 - (4) Record keeping and insurance requirements to satisfy the requirements of Sections 11103.1 and 11108.
- (b) Upon presentation to the committee of a proposed program by an applicant to become an approved all-terrain vehicle safety training organization, the committee shall determine whether the applicant's program meets the minimum criteria and, if approved, shall recommend the organization for licensing pursuant to Section 11105.6.

§ 38501. Safety Certificates

- (a) An all-terrain vehicle safety training organization, commencing on January 1, 1989, shall issue an all-terrain vehicle safety certificate furnished by the department to any individual who successfully completes a course of instruction in all-terrain vehicle

operation and safety as approved and certified by the Off-highway Vehicle Safety Education Committee.

- (b) The department shall charge a fee not to exceed three dollars (\$3) for each all-terrain vehicle safety certificate issued by an all-terrain vehicle safety training organization to each person completing a course of instruction from an all-terrain vehicle safety instructor using the approved course of instruction of the all-terrain vehicle safety training organization. The amount of the fee shall be determined by the department and shall be sufficient to defray the actual costs incurred by the department for administering and monitoring this program.
- (c) An all-terrain vehicle safety training organization shall not charge a fee in excess of the fee charged by the department pursuant to subdivision (b) for furnishing an all-terrain vehicle safety certificate. An organization may charge a fee not to exceed three dollars (\$3) in addition to the fee charged by the department for the issuance of a duplicate certificate and shall provide a duplicate certificate if requested by the person who completed the course.

§ 38502. Monitoring

The department, on and after July 1, 1988, may monitor any all-terrain vehicle safety training organization or any all-terrain vehicle safety instructor without advance notice. The monitoring may include, but is not limited to, the instruction provided, business practices, and records required by Section 11108.

§ 38503. Conditions for Operating: Minors

No person under the age of 18 years, on and after January 1, 1990, shall operate an all-terrain vehicle on public lands of this state unless the person satisfies one of the following conditions:

- (a) The person is taking a prescribed safety training course under the direct supervision of a certified all-terrain vehicle safety instructor.
- (b) The person is under the direct supervision of an adult who has in their possession an appropriate safety certificate issued by this state, or issued under the authority of another state.
- (c) The person has in possession an appropriate safety certificate issued by this state or issued under the authority of another state.

§ 38504. Conditions for Operating by Minors Under 14: Additional Requirements

No person under 14 years of age, on and after January 1, 1990, shall operate an all-terrain vehicle on public lands of this state unless the person satisfies one of the conditions set forth in Section 38503 and, in addition, is accompanied by and under the direct supervision of a parent or guardian or is accompanied by and under the direct supervision of an adult who is authorized by the parent or guardian.

§ 38504.1. Violation of Operating Conditions: Penalties

- (a) Neither a parent or guardian of a child who is under 14 years of age, nor an adult who is authorized by the parent or guardian to supervise that child shall grant permission to, or knowingly allow, that child to operate an all-terrain vehicle in a manner that violates Section 38504.
- (b) A person convicted of a violation of subdivision (a) is punishable as follows:
 - (1) For a first conviction, the court shall either impose a fine of one hundred twenty-five dollars (\$125) or order the person to take or retake and complete an all-terrain vehicle safety training course pursuant to Section 38501. If ordered to take or retake and complete the safety training course, the person shall provide the court a copy of the all-terrain vehicles safety certificate issued as a result of that completion.
 - (2) For a second conviction, a fine of not less than one hundred twenty-five dollars (\$125) nor more than two hundred fifty dollars (\$250).
 - (3) For a third or any subsequent conviction, a fine of not less than two hundred fifty dollars (\$250) nor more than five hundred dollars (\$500).

§ 38504.2. Court Ordered Safety Training Course

If a person under 14 years of age was not properly supervised or accompanied in accordance with Section 38504, and the parent or guardian of that child or the adult who was authorized by the parent or guardian to supervise or accompany that child is in violation of Section 38504.1, upon a conviction pursuant to Section 38504, the court may order that child to attend and complete the all-terrain vehicle safety training course accompanied by the person who violated Section 38504.1. If so ordered, the child under 14 years of age shall provide the court a copy of the all-terrain vehicles safety certificate issued as a result of that completion.

§ 38505. Safety Helmet Required

No person, on and after January 1, 1989, shall operate, ride, or be otherwise propelled on an all-terrain vehicle on public lands unless the person wears a safety helmet meeting requirements established for motorcycles and motorized bicycles, pursuant to Section 27802.

§ 38506. Passengers Prohibited

No operator of an all-terrain vehicle may carry a passenger when operating on public lands.

However, the operator of an all-terrain vehicle, that is designed for operation off of the highway by an operator with no more than one passenger, may carry a passenger when operating on public lands.

DIVISION 17. Offenses and Prosecution

CHAPTER 2. Penalties

ARTICLE 4. Notice to Correct Violation

§ 40610. Notice

- (a) (1) Except as provided in paragraph (2), if, after an arrest, accident investigation, or other law enforcement action, it appears that a violation has occurred involving a registration, license, all-terrain vehicle safety certificate, or mechanical requirement of this code, and none of the disqualifying conditions set forth in subdivision (b) exist and the investigating officer decides to take enforcement action, the officer shall prepare, in triplicate, and the violator shall sign, a written notice containing the violator's promise to correct the alleged violation and to deliver proof of correction of the violation to the issuing agency.
- (2) If any person is arrested for a violation of Section 4454, and none of the disqualifying conditions set forth in subdivision (b) exist, the arresting officer shall prepare, in triplicate, and the violator shall sign, a written notice containing the violator's promise to correct the alleged violation and to deliver proof of correction of the violation to the issuing agency. In lieu of issuing a notice to correct violation pursuant to this section, the officer may issue a notice to appear, as specified in Section 40522.
- (b) Pursuant to subdivision (a), a notice to correct violation shall be issued as provided in this section or a notice to appear shall be issued as provided in Section 40522, unless the officer finds any of the following:
 - (1) Evidence of fraud or persistent neglect.
 - (2) The violation presents an immediate safety hazard.
 - (3) The violator does not agree to, or cannot, promptly correct the violation.
- (c) If any of the conditions set forth in subdivision (b) exist, the procedures specified in this section or Section 40522 are inapplicable, and the officer may take other appropriate enforcement action.
- (d) Except as otherwise provided in subdivision (a), the notice to correct violation shall be on a form approved by the Judicial Council and, in addition to the owner's or operator's address and identifying information, shall contain an estimate of the reasonable time required for correction and proof of correction of the particular defect, not to exceed 30 days, or 90 days for the all-terrain vehicle safety certificate.

DIVISION 18. Penalties and Disposition of Fees, Fines and Forfeitures

CHAPTER 1. Penalties

ARTICLE 1. Public Offenses

§ 42001.10. Unidentified Off-Highway Vehicle

Every person convicted for a violation of Section 38020 shall be punished by a fine of not less than fifty dollars (\$50) for a first offense, and not more than two hundred fifty dollars (\$250) for every subsequent offense.

CHAPTER 2. Disposition of Fees, Fines, and Forfeitures

ARTICLE 1. Fines and Forfeitures

§ 42200. Disposition by Cities and Other Local Entities

- (a) Of the total amount of fines and forfeitures received by a city under Section 1463 of the Penal Code that proportion which is represented by fines and forfeitures collected from any person charged with a misdemeanor under this code following arrest by an officer employed by a city, shall be paid into the treasury of the city and deposited in a special fund to be known as the "Traffic Safety Fund," and shall be used exclusively for official traffic control devices, the maintenance thereof, equipment and supplies for traffic law enforcement and traffic accident prevention, and for the maintenance, improvement, or construction of public streets, bridges, and culverts within the city, but the fund shall not be used to pay the compensation of traffic or other police officers. The fund may be used to pay the compensation of school crossing guards who are not regular full-time members of the police department of the city.
- (b) For purposes of this section, "city" includes any city, city and county, district, including any enterprise special district, community service district, or county service area engaged in police protection activities as reported to the Controller for inclusion in the 1989-90 edition of the Financial Transactions Report Concerning Special Districts under the heading of Police Protection and Public Safety, authority, or other local agency (other than a county) which employs persons authorized to make arrests or to issue notices to appear or notices of violation which may be filed in court.

§ 42201. Disposition by County

- (a) Of the total amount of fines and forfeitures received by a county under Section 1463.001 of the Penal Code, fines and forfeitures collected from any person charged with a misdemeanor under this code following arrest by any officer employed by the state or by the county shall be paid into the general fund of the county. However, the board of supervisors of the county may, by resolution, provide that a portion thereof be transferred into the road fund of the county.
- (b) The board of supervisors of a county may enter into a contract with the Department of the California Highway Patrol for the purpose of providing adequate protection for school pupils who are required to cross heavily traveled streets, highways, and roadways in the unincorporated areas of the county. When requested, the Department of the California Highway Patrol may provide such service and the county shall reimburse the state for salaries and wages of crossing guards furnished by the Department of the California Highway Patrol pursuant to such contract, including any necessary retirement and general administrative costs and expenses in connection therewith, and may pay the costs thereof from amounts deposited in the road fund pursuant to this section.
- (c) Fines and forfeitures received by a county under Section 1463.001 of the Penal Code may be used to pay the compensation of school crossing guards and necessary equipment costs and administrative costs.
- (d) When requested by any county which had in effect on June 30, 1979, a contract with the Department of the California Highway Patrol, to provide protection for school pupils at school crossings, the department upon request of a county shall continue to administer such school crossing program until June 30, 1980. The county shall reimburse the Department of the California Highway Patrol for general administrative costs and expenses in connection therewith, except that, effective January 1, 1980, the crossing guards shall be furnished to the California Highway Patrol and such crossing guards shall be employees of the county, the county superintendent of schools, the affected school districts, or both the superintendent and the affected school districts, at the option of the board of supervisors of the county. Any salaries and wages of crossing guards, including necessary retirement and equipment costs and any administrative costs shall be paid or reimbursed by the county from amounts deposited in the road fund pursuant to this section.
- (e) The board of supervisors may adopt standards for the provision of school crossing guards. The board has final authority over the total cost of the school crossing guard program of any agency to be paid or reimbursed from amounts deposited in the road fund pursuant to this section. The board of supervisors may specify that a designated county officer, employee, or commissioner is to hire school crossing guards, or, in the alternative, the board may specify that any school district crossing guard program in unincorporated areas shall be maintained by the school districts desiring the program.

§ 42201.1. Additional Disposition by County

Fines and forfeitures received by a county under Section 1463 of the Penal Code may be used to reimburse the state for the construction of platform scales and vehicle inspection facilities in the county.

§ 42201.5. Disposition of Infraction Fines and Forfeitures

Fines, forfeitures, and deposits of bail collected as a result of a charge or conviction of an infraction shall be deposited and distributed in the same manner as fines, forfeitures, and deposits of bail collected from a person charged with or convicted of a misdemeanor.

§ 42201.6. Refunds: Bail Deposits

- (a) A deposit of bail received with respect to an infraction violation of this code, or any local ordinance adopted pursuant to this code, including, but not limited to, a violation involving the standing or parking of a vehicle, shall be refunded by the agency which issued the notice of violation or the court within 30 days of a cancellation, dismissal, or finding of not guilty of the offense charged.
- (b) Multiple or duplicate deposits of bail or parking penalty shall be identified by the court or agency and refunded within 30 days of identification.
- (c) Any amount to be refunded in accordance with subdivision (a) or (b) shall accrue interest, at the rate specified in Section 3289 of the Civil Code, on and after the 60th day of a cancellation, dismissal, or finding of not guilty or identification of multiple or duplicate deposits, and shall be refunded as soon as possible thereafter along with accrued interest.

§ 42202. Disobedience by Officials

Failure, refusal, or neglect on the part of any judicial or other officer or employee receiving or having custody of any fine or forfeiture mentioned in this article either before or after deposit in the respective fund to comply with the foregoing provisions of this article is misconduct in office and ground for removal therefrom.

§ 42203. Disposition of Fines and Forfeitures for Violations on Certain County-Owned Premises

Notwithstanding Section 42201 or 42201.5, 50 percent of all fines and forfeitures collected in a superior court upon conviction or upon the forfeiture of bail for violations of any provisions of the Vehicle Code, or of any local ordinance or resolution, relating to stopping, standing, or parking a vehicle, that have occurred upon the premises of facilities physically located in such county, but which are owned by another county, which other

county furnishes law enforcement personnel for the premises, shall be transmitted pursuant to this section to the county which owns the facilities upon which the violations occurred. The court receiving such moneys shall, once each month, transmit such moneys received in the preceding month to the county treasurer of the county in which the court is located. Once each month in which the county treasurer receives such moneys, the county treasurer shall transmit to the county which owns such facilities an amount equal to 50 percent thereof. The county owning such facilities shall, upon receipt of such moneys from the superior court of the county in which the facilities are physically located, deposit such moneys in its county treasury for use solely in meeting traffic control and law enforcement expenses on the premises upon which the violations occurred.

This section shall not apply when the county in which such facilities are located performs all law enforcement functions with respect to such facilities.

§ 42204. Disposition of Off-Highway Vehicle Fines and Forfeitures

Notwithstanding any other provisions of law, all fines and forfeitures collected for violations of Division 16.5 (commencing with Section 38000) shall be deposited in the appropriate fund in the county where the violation occurred and distributed in the same manner as specified in Section 42201.5, and shall be used for enforcing laws related to the operation of off-highway motor vehicles.

§ 42205. Report, Remission, Deposit, and Transfer of Funds

- (a) Notwithstanding Chapter 3 (commencing with Section 42270), the department shall file, at least monthly with the Controller, a report of money received by the department pursuant to Section 9400 for the previous month and shall, at the same time, remit all money so reported to the Treasurer. On order of the Controller, the Treasurer shall deposit all money so remitted into the State Highway Account in the State Transportation Fund.
- (b) The Legislature shall appropriate from the State Highway Account in the State Transportation Fund to the department and the Franchise Tax Board amounts equal to the costs incurred by each in performing their duties pursuant to Article 3 (commencing with Section 9400) of Chapter 6 of Division 3. The applicable amounts shall be determined so that the appropriate costs for registration and weight fee collection activities are appropriated between the recipients of revenues in proportion to the revenues that would have been received individually by those recipients if the total fee imposed under the Vehicle License Fee Law (Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code) was 2 percent of the market value of a vehicle. The remainder of the funds collected under Section 9400 and deposited in the account may be appropriated to the Department of Transportation, the Department of the California Highway Patrol, and the Department

of Motor Vehicles for the purposes authorized under Section 2 of Article XIX of the California Constitution.