



**OHMVR COMMISSION MEETING
Costa Mesa, CA**

September 20, 2013

STAFF REPORT: Legislative Update

STAFF: Tina L. Williams, Superintendent of Public Relations and Communications

SUBJECT: California and Federal Legislation

Summary

This report provides summary excerpts and status of bills that may affect the Off-Highway Motor Vehicle Recreation (OHMVR) Program. Information contained in this report is accurate as of September 18, 2013. Changes in status of some bills, or introduction of new bills, may occur between the date this report was prepared and the Commission meeting date.

Discussion

CALIFORNIA LEGISLATION UPDATE

Assembly Bill 150 (Olsen) State Parks: Armed Services: Fee Waiver

Summary: An act to add Section 5011.6 to the Public Resources Code relating to State Parks. This bill would allow the Department to offer a reduced rate or free entrance, on Memorial Day and Veterans Day, to any state-operated unit of the State Park System, for any veteran, active duty military personnel, National Guard Member or reservist, if military identification or proof of discharge is provided.

Status: Active - 09/10/13 – Passed Legislature. Will be sent to Governor for signature or veto.

Assembly Bill 315 (Committee on Veterans Affairs): State Park Passes for Veterans of War and Purple Heart Recipients

Summary: This bill would expand eligibility criteria for the Department's Distinguished Veteran Pass to include Purple Heart recipients

The Distinguished Veterans Pass was developed in 1979 (Chapter 757, Statutes of 1979), to recognize and honor war veterans who had been honorably discharged from

the military. This lifetime pass entitles the veteran to free day-use, camping and boating facilities within the State Park System.

Status: Inactive- 08/30/13 this bill was held in Senate Appropriations committee and cannot move forward this year.

Assembly Bill 594 (Committee on Water, Parks and Wildlife): State Park Operating Agreements and Park Closures

Summary: This bill would provide technical and clarifying language regarding the Department's revenue generation program and add an annual Legislative reporting requirement for that program. Additionally, this bill would provide clarifying language regarding the two-year moratorium on closing State Parks and the Department's authority to enter into operating agreements with non-profit entities. Finally, this bill would revise legislatively specified criteria to be used by the Department to identify Units of the State Park System selected for closure in the event budget reductions necessitate closures.

Status: Active – 8/30/13 - Passed Legislature. 09/09/13 – sent to Governor, awaiting signature or veto.

Assembly Bill 757 (Hernández): Department of Parks and Recreation: payroll review report

Summary: This bill would require the Department to report to the Legislature on the implementation of the Controller's Office recommendations contained in its December 2012, Payroll Review Report. This report is due to the Legislature by July 31, 2014 and this section will automatically sunset on December 31, 2014

Status: 09/09/13 - Signed by Governor. Chapter 297, Statutes of 2013.

Assembly Bill 988 (Jones): New Motor Vehicle Board: Recreational Off-Highway Dealers

Summary: This bill clarifies that dealers, distributors, and manufacturers of recreational off-highway vehicles (ROHVs) are subject to the purview of the New Motor Vehicle Board (NMVB).

Current law (as of January 1, 2013) distinguishes recreational off-highway vehicles (ROHVs) as a separate class of vehicle from motorcycles or all-terrain vehicles (ATVs). As such, it is unclear whether or not ROHVs continue to fall under the jurisdiction of the NMVB. Therefore, by introducing this bill, the author seeks to clarify that ROHV would continue to be subject to the jurisdiction of the NMVB, as they were up until 2012.

Status: Inactive – This bill is located in the Senate Appropriations committee. Due to Legislative deadlines, it cannot move forward this year.

Assembly Bill 1142 (Bloom): State Beaches and Parks Smoking Ban

Summary: This bill would prohibit a person from smoking a cigar, cigarette, or other tobacco-related product at any unit within the State Park System or on any state coastal beach. Any person convicted of smoking any of the above mentioned tobacco products within these areas would be subject to a fine of \$250.

Additionally, this bill requires the Department to develop and post signs, at state coastal beaches and units of the State Park System, to provide notice to the public of the smoking ban..

Status: 04/24/13 - This bill failed passage in the Assembly Governmental Organization committee.

Senate Bill 151 (DeSaulnier) Vehicles: License Plates

Summary: This bill repeals the Department of Motor Vehicles (DMV's) authority to make rules governing the use and display of stickers or devices in lieu of license plates.

Status: Inactive – This bill is located in the Assembly Transportation Committee. Due to Legislative deadlines, it cannot move forward this year.

Senate Bill 234 (Walters) Recreational Off-Highway Vehicles

Summary: This bill would allow aftermarket seats in off-highway vehicles, model year 2013 or prior. Tens of thousands of these vehicles were purchased and modified by the owners, adding two additional seats to create a four-passenger vehicle. However, last year, AB 1595 (Cook), Chapter 165, Statutes of 2012, made aftermarket seats illegal. This bill grandfathers in recreational off-highway vehicles with aftermarket seats, manufactured in 2013 or earlier, as long as the seats are fully contained inside the vehicle and covered by rollover protection. This bill defines the statutory requirement for occupant handholds for operators and passengers in Recreational Off-highway Vehicles. Although this was an element of AB 1595, that legislation did not define "handholds". The lack of definition for handholds created an enforcement problem which is eliminated by this bill.

Status: 8/27/13 – Signed by the Governor. Chapter 179, Statutes of 2013

Senate Bill 241 (Evans): Oil Severance Tax Law

Summary: This bill would impose a severance tax on the extraction of oil and natural gas. The proposed new tax would be administered and collected by the Board of Equalization (BOE).

This bill requires that 5% of tax revenues collected be dedicated to the Department of Parks and Recreation for maintenance and improvement of state parks. Estimates of potential tax revenues to the Department are \$40.7 million in 2013/14 and \$75 million in 2014/15.

Status: Inactive – This bill was held in Senate Appropriations and cannot move forward this year.

Senate Bill 334 (Fuller): Recreational Off-highway Vehicles

Summary: This bill would postpone implementation prohibiting aftermarket passenger seating in recreational off-highway vehicles until January 1, 2015.

Status: Inactive – This bill is located in Senate Transportation and Housing committee. Due to Legislative deadlines, it cannot move forward this year.

FEDERAL LEGISLATION

U S Congress House of Representatives 1776 (Rep Farr) Clear Creek National Recreation Area and Conservation Act

Summary: Clear Creek National Recreation Area and Conservation Act - Establishes the Clear Creek National Recreation Area in California to promote environmentally responsible high-quality motorized and non-motorized trail based recreation, including off-highway vehicle use, scenic touring, and access for hunting and gem collecting, while protecting landscape resources.

Status: Active- Latest Major Action: 5/3/2013 Referred to House subcommittee. Status: Referred to the Subcommittee on Public Lands and Environmental Regulation. Bill was introduced on 4/26/13.

Commission Action

For information only

Attachments

AB 150- as amended; AB 315; AB 594- as amended; AB 757- as amended; AB 988- as amended; AB 1142 – as amended; SB 151; SB 234- chaptered; SB 241- as amended; SB 334; and H.R. 1776.

AMENDED IN SENATE SEPTEMBER 3, 2013

AMENDED IN ASSEMBLY MAY 24, 2013

AMENDED IN ASSEMBLY APRIL 11, 2013

AMENDED IN ASSEMBLY APRIL 3, 2013

AMENDED IN ASSEMBLY MARCH 13, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 150

Introduced by Assembly Member Olsen

(Coauthors: Assembly Members Achadjian, Bigelow, Chávez, Beth Gaines, Gorell, Grove, Harkey, Maienschein, Patterson, V. Manuel Pérez, Salas, and Wagner)

(Coauthors: Senators Cannella, Fuller, Gaines, Huff, Nielsen, and Padilla)

January 18, 2013

An act to add Section 5011.6 to the Public Resources Code, relating to state parks.

LEGISLATIVE COUNSEL'S DIGEST

AB 150, as amended, Olsen. State parks: armed services: fee waiver.

Existing law requires certain veterans of a war in which the United States is or has been engaged, upon application and presentation to the Department of Parks and Recreation of certain proof, including proof of a disability or proof of being held captive as a prisoner of war, to be issued a pass entitling the bearer use of all facilities, including boat launching facilities, in units of the state park system.

This bill would ~~require~~ *authorize the department to offer* a veteran, as defined, or current active duty or reserve military personnel for the United States Armed Forces or the National Guard of any state, ~~to be entitled to a reduced fee or free day use of the California state parks,~~ as provided, on Memorial Day and Veterans Day if certain conditions are met, including that proper proof is supplied.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5011.6 is added to the Public Resources
2 Code, to read:
3 5011.6. ~~Notwithstanding Section 5011.5,~~ *The department may*
4 *offer a reduced fee or free day use of any unit of the state park*
5 *that is operated by the state and accessible with a vehicle day use*
6 *annual pass, as those parks are listed on the department’s Internet*
7 *Web site, to a veteran, as defined in Section 980 of the Military*
8 *and Veterans Code, or active duty or reserve military personnel*
9 *for the United States Armed Forces or the National Guard of any*
10 *state, shall be entitled to free day use of the California state parks*
11 *that are operated by the state and accessible with a vehicle day use*
12 *annual pass, as those parks are listed on the department’s Internet*
13 *Web site, on Memorial Day and Veterans Day if the veteran can*
14 *provide proof of current military identification, or proof of*
15 *discharge under conditions other than dishonorable or bad conduct,*
16 *or the active duty or reserve military personnel of the Armed Forces*
17 *or the National Guard can provide current military identification.*

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ASSEMBLY BILL

No. 315

Introduced by Committee on Veterans Affairs

February 12, 2013

An act to amend Section 5011.5 of the Public Resources Code, relating to state parks.

LEGISLATIVE COUNSEL'S DIGEST

AB 315, as introduced, Committee on Veterans Affairs. State parks: veteran of war: Purple Heart recipient.

Existing law requires the Department of Parks and Recreation to issue a park pass for use of all park facilities in the state park system to a veteran of war in which the United States has been, or may be, engaged who is a resident of this state, who presents to the department proof of a disability, proof of being held captive as a prisoner of war, or proof of being a recipient of a Congressional Medal of Honor, as provided.

This bill would make the recipient of a Purple Heart eligible for the pass.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5011.5 of the Public Resources Code is
2 amended to read:
3 5011.5. (a) A veteran of a war in which the United States has
4 been, or may be engaged, who is a resident of this state, upon
5 presentation to the department of proof of disability, proof of being
6 held captive as a prisoner of war, or proof of being a recipient of

1 a Congressional Medal of Honor *or a Purple Heart*, and proof of
2 an honorable discharge from service, upon application therefor,
3 shall be issued a pass entitling the bearer to the use of all facilities,
4 including boat launching facilities, in units of the state park system.

5 (b) As used in this section:

6 (1) “Veteran” means a former member of the Armed Forces of
7 the United States who has a 50 percent or greater service-connected
8 disability, or who was held as a prisoner of war by forces hostile
9 to the United States, as certified by the United States Department
10 of Veterans Affairs, and who was honorably discharged from
11 service.

12 (2) “War” means that period of time commencing when
13 Congress declares war or when the Armed Forces of the United
14 States are engaged in active military operations against a foreign
15 power, whether or not war has been formally declared, and ending
16 upon the termination of hostilities as proclaimed by the President
17 of the United States.

Assembly Bill No. 594

Passed the Assembly August 30, 2013

Chief Clerk of the Assembly

Passed the Senate August 26, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 541.5, 5007, 5010.6, 5010.7, and 5080.42 of the Public Resources Code, relating to state parks, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL’S DIGEST

AB 594, Committee on Water, Parks and Wildlife. State parks: operating agreements: park closures.

(1) Existing law requires the Department of Parks and Recreation to achieve any required budget reductions by closing, partially closing, and reducing services at selected units of the state park system.

This bill would instead state that it is the intent of the Legislature that the department consistently operate the state park system, as specified. This bill would state that it is the intent of the Legislature, if budget reductions necessitate changes to the continued operation of state park units, that the department achieve any required budget reductions by implementing efficiencies and increasing revenue collection or reducing services and that full park closures only be considered as a last option, as provided. The bill would require, for any park units proposed for closure on or after July 1, 2014, that the department document and publicly disclose, among other things, the methodology used to evaluate and select the park units proposed for closure.

Existing law requires the department to select park units for closure based solely on certain factors, including factors related to rate of visitation and proximity to other closed park units.

This bill would, among other things, require that the rate of visitation be measured not only based on the raw number of visitations to the park unit, but also the extent to which the total capacity of the park unit is used. The bill would eliminate proximity to other closed park units as a factor for closure. In addition, the bill would add additional factors for consideration, including the extent to which closure of a unit would increase public safety hazards or impair the state’s ability to protect iconic natural and historical resources.

The bill would require the State Parks and Recreation Commission to hold a public hearing on any park unit closures that are proposed by the department on or after July 1, 2014.

(2) Existing law prohibits the department from closing or proposing to close a state park in the 2012–13 or 2013–14 fiscal year. Existing law authorizes the department to enter into an operating agreement with a qualified nonprofit organization for the purposes of operating the entirety of a park unit, as identified by the director of the department, to the extent the operating agreement would enable the department to avoid closure of a unit or units of the state park system that may otherwise be subject to closure.

This bill would provide that the prohibition to close, or propose to close, a state park in the 2012–13 or 2013–14 fiscal year does not limit or affect the department’s authority to enter into an operating agreement during the 2012–13 or 2013–14 fiscal year, for purposes of the operation of the entirety of a state park, as agreed to by the director, during the 2012–13 or 2013–14 fiscal year.

(3) Existing law establishes the State Parks Revenue Incentive Subaccount in the State Parks and Recreation Fund. Existing law continuously appropriates moneys in the account to the department to create incentives for projects that are consistent with the mission of the department and generate revenue, as provided.

This bill would specify that projects referred to above include, but are not limited to, capital outlay projects.

(4) Existing law requires the department to develop a revenue generation program as an essential component of a long-term sustainable park funding strategy. Existing law requires the incremental revenue generated by the revenue generation program to be deposited into the State Parks and Recreation Fund and transferred to the California State Park Enterprise Fund, as provided, once revenue targets have been met and the excess revenue is identified. Existing law further requires the department to allocate 50% of the total amount of revenues deposited into the California State Park Enterprise Fund, generated by a park district to that district if the amount of revenues generated exceeds the targeted revenue amount prescribed in the revenue generation program and requires the department to use 50% of the funds

deposited into the California State Park Enterprise Fund for specific purposes.

This bill would instead require that the incremental revenue generated by the program that is to be deposited into the State Parks and Recreation Fund be transferred instead to the State Parks Revenue Incentive Subaccount, rather than the California State Park Enterprise Fund, and would retain the same requirements for the allocation to a district and use of the revenues as described above. The bill would require the department to report to the Legislature, commencing on July 1, 2014, and annually on or before each July 1 thereafter, on the revenue distributed to each district.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 541.5 of the Public Resources Code is amended to read:

541.5. (a) The department shall not close, or propose to close, a state park in the 2012–13 or 2013–14 fiscal year. The commission and the department shall recommend all necessary steps to establish a sustainable funding strategy for the department to the Legislature on or before January 1, 2015.

(b) There is hereby appropriated twenty million five hundred thousand dollars (\$20,500,000) to the department from the State Parks and Recreation Fund, which shall be available for encumbrance for the 2012–13 and 2013–14 fiscal years, to be expended as follows:

(1) Ten million dollars (\$10,000,000) shall be available to provide for matching funds pursuant to subdivision (c).

(2) Ten million dollars (\$10,000,000) shall be available for the department to direct funds to parks that remain at risk of closure or that will keep parks open during the 2012–13 and 2013–14 fiscal years. Priority may be given to parks subject to a donor or operating agreement or other contractual arrangement with the department.

(3) Up to five hundred thousand dollars (\$500,000) shall be available for the department to pay for ongoing audits and investigations as directed by the Joint Legislative Audit Committee,

the office of the Attorney General, the Department of Finance, or other state agency.

(c) The department shall match on a dollar-for-dollar basis all financial contributions contributed by a donor pursuant to an agreement for the 2012–13 fiscal year for which the department received funds as of July 31, 2013, and for agreements entered into in the 2013–14 fiscal year. These matching funds shall be used exclusively in the park unit subject to those agreements.

(d) The department shall notify the Joint Legislative Budget Committee in writing not less than 30 days prior to the expenditure of funds under this section of the funding that shall be expended, the manner of the expenditure, and the recipient of the expenditure.

(e) The prohibition to close, or propose to close, a state park in the 2012–13 or 2013–14 fiscal year, pursuant to paragraph (a), does not limit or affect the department’s authority to enter into an operating agreement, pursuant to Section 5080.42, during the 2012–13 or 2013–14 fiscal year, for purposes of the operation of the entirety of a state park during the 2012–13 or 2013–14 fiscal year.

SEC. 2. Section 5007 of the Public Resources Code is amended to read:

5007. (a) It is the intent of the Legislature that the department consistently operate the state park system to preserve public access and provide protection of natural, cultural, and historic resources. If budget reductions necessitate changes to the continued operation of state park units, it is the intent of the Legislature that the department achieve required budget reductions by implementing efficiencies and increasing revenue collection, or reducing services at selected units of the state park system, and that full park closures only be considered as a last option to address required budget reductions after all other feasible alternatives, including, but not limited to, entering into operating agreements with qualified nonprofit entities and local governments have been explored.

(b) For any park unit proposed for closure on or after July 1, 2014, the department shall document and publicly disclose the methodology, rationale, and scoring system used to evaluate and select park units proposed for closure, and shall select any units proposed to be closed based on consideration of all of the following factors:

(1) The relative statewide significance of each park unit, preserving to the extent possible, parks identified in the department's documents including "Outstanding and Representative Parks," the "California State History Plan," and the "California State Parks Survey of 1928."

(2) The rate of visitation to each unit, to minimize impacts to visitation in the state park system. Visitation shall be measured not only based on the raw number of visitations to the unit, but also to the extent that the total capacity of the unit is used.

(3) (A) The estimated net savings from closing each unit, to maximize savings to the state park system.

(B) For purposes of this subdivision, "net savings" means the estimated costs of operation for the unit less the unit's projected revenues and less the costs of maintaining the unit after it is closed.

(4) The feasibility of physically closing each unit.

(5) The existence of, or potential for, partnerships that can help support each unit, including public and nonprofit partners and concessions.

(6) Significant operational efficiencies to be gained by closing a unit.

(7) Significant and costly infrastructure deficiencies affecting key systems at each unit so that continued operation of the unit is less cost effective relative to other units.

(8) Recent or funded infrastructure investments at a unit.

(9) Necessary but unfunded capital investments at a unit.

(10) Deed restrictions and grant requirements applicable to each unit.

(11) The extent to which there are substantial dedicated funds for the support of the unit that are not appropriated from the General Fund.

(12) The extent to which the closure of a park unit would disproportionately impact one community or region of the state over another, based on existing information readily available to the department. Nothing in this paragraph is intended to require the department to prepare, or contract for the preparation of, new studies or research to obtain information or analysis not already readily available to the department with existing resources.

(13) The extent to which the closure of a park unit would limit availability of facilities within state parks that are compliant with

the Americans with Disabilities Act of 1990 and subsequent amendments to the act.

(14) The extent to which closure of a park unit would impair firefighter access to water resources or otherwise increase fire risk.

(15) The extent to which closure of a park unit would increase public safety hazards or impair the state's ability to protect iconic natural and historical resources.

(c) The commission shall hold a public hearing on any park unit closures that are proposed by the department on or after July 1, 2014, and information gathered at the hearing shall be considered by the department before any final decision regarding the proposed closure of a park unit.

(d) Notwithstanding Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, a public entity or a public employee is not liable for injury or damage caused by a condition of public property located in, or injury or damage otherwise occurring in, or arising out of an activity in, a state park system unit that is designated as closed by the department pursuant to subdivision (a), except for conduct that constitutes gross negligence or is wanton or reckless. This immunity shall apply notwithstanding the fact that the public has access, whether invited or uninvited, to the state park system unit, and notwithstanding that the department may take actions such as patrols, inspections, maintenance, and repairs necessary to protect the state park system unit facilities and resources from deterioration, damage, or destruction. This immunity shall apply only to units of the state park system that are designated as closed pursuant to subdivision (a) and shall not apply to units that are partially closed or subject to service reductions but not closure. The closed units shall be maintained in a list by the department and the list shall be made publicly available and posted on the department's Internet Web site. The list shall include the date the unit is considered closed. The immunity provided by this subdivision does not limit any other immunity or immunities available to a public entity or a public employee. The governmental immunity provided in this section does not apply to a third party or entity that has reopened a park listed as closed pursuant to subdivision (a). The immunity shall continue to apply to the state.

SEC. 3. Section 5010.6 of the Public Resources Code is amended to read:

5010.6. (a) For purposes of this section, “subaccount” means the State Parks Revenue Incentive Subaccount created pursuant to this section.

(b) The State Parks Revenue Incentive Subaccount is hereby created within the State Parks and Recreation Fund and the Controller shall annually transfer fifteen million three hundred forty thousand dollars (\$15,340,000) from the State Parks and Recreation Fund to the subaccount.

(c) Notwithstanding Section 13340 of the Government Code, the funds in the subaccount are hereby continuously appropriated to the department to create incentives for projects, including, but not limited to, capital outlay projects, that are consistent with the mission of the department and that generate revenue, except the department shall not expend from the subaccount more than eleven million dollars (\$11,000,000) annually pursuant to Section 5003.

(d) The Office of State Audits and Evaluations shall review the activities funded from the subaccount pursuant to subdivision (c) to ensure appropriate internal controls are in place. The department shall reimburse the Office of State Audits and Evaluations from the subaccount for any costs related to the review.

(e) The revenue generated from projects funded by the subaccount shall be deposited in the subaccount and are continuously appropriated for expenditure by the department in accordance with the following:

(1) At least 50 percent of the revenue generated shall be expended in the district of the department that earned that revenue, as an incentive for revenue generation.

(2) The remaining revenue may be expended by the department pursuant to subdivision (c), including, but not limited to, for expenditure pursuant to Section 5003.

(f) The funds in the subaccount shall be available for encumbrance and expenditure until June 30, 2014, and for liquidation until June 30, 2016.

(g) This section shall become inoperative on June 30, 2016, and, as of January 1, 2017, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2017, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. Section 5010.7 of the Public Resources Code is amended to read:

5010.7. (a) The department shall develop a revenue generation program as an essential component of a long-term sustainable park funding strategy. On or before October 1, 2012, the department shall assign a two-year revenue generation target to each district under the control of the department. The revenue target may be amended annually for subsequent years, beginning in the 2015–16 fiscal year. The department shall develop guidelines for districts to report the use of funds generated by the revenue generation program, and shall post information and copies of the reports on its Internet Web site.

(b) The California State Park Enterprise Fund is hereby created in the State Treasury as a working capital fund, and the revenue shall be available to the department upon appropriation by the Legislature, for the expenditures for the purposes specified in this section and shall be available for encumbrance and expenditure until June 30, 2014, and for liquidation until June 30, 2016.

(c) The incremental revenue generated by the revenue generation program developed pursuant to subdivision (a) shall be deposited into the State Parks and Recreation Fund. Revenue identified as being in excess of the revenue targets shall be transferred to the State Parks Revenue Incentive Subaccount, established pursuant to Section 5010.6, on or before June 1, annually.

(d) Moneys appropriated to the department pursuant to subdivision (b) and Section 5010.6 shall be expended as follows:

(1) (A) The department shall allocate 50 percent of the total amount of revenues deposited into the State Parks Revenue Incentive Subaccount pursuant to subdivision (c), generated by a park district to that district if the amount of revenues generated exceeds the targeted revenue amount prescribed in the revenue generation program. The revenues to be allocated to a park district that fails to achieve the revenue target shall remain in the fund.

(B) With the approval of the director, each district shall use the funds it receives from the department from the revenue generation program to improve the parks in that district through revenue generation programs and projects and other activities that will assist in the district's revenue generation activities, and the programs, projects, and other activities shall be consistent with the mission and purpose of each unit and with the plan developed for the unit pursuant to subdivision (a) of Section 5002.2.

(C) The department shall report to the Legislature, commencing on July 1, 2014, and annually on or before each July 1 thereafter, on the revenue distributed to each district pursuant to this section.

(2) The department shall use 50 percent of the funds deposited into the State Parks Revenue Incentive Subaccount pursuant to subdivision (c) for the following purposes:

(A) To fund the capital costs of construction and installation of new revenue and fee collection equipment and technologies and other physical upgrades to existing state park system lands and facilities.

(B) For costs of restoration, rehabilitation, and improvement of the state park system and its natural, historical, and visitor-serving resources that enhance visitation and are designed to create opportunities to increase revenues.

(C) For costs to the department to implement the action plan required to be developed by the department pursuant to Section 5019.92 of the Public Resources Code.

(D) To establish a revolving loan program pursuant to subdivision (e).

(e) (1) The department shall establish a revolving loan program and prepare guidelines establishing a process for those districts that receive moneys under paragraph (1) of subdivision (d) to apply for funds that exceed the amount of funds provided to the districts pursuant to paragraph (1) of subdivision (d). It is the intent of the Legislature that the revolving loan program fund only those projects that will contribute to the success of the department's revenue generation program and the continual growth of the fund over time. Districts may apply for funds for capital projects, personnel, and operations that are consistent with this subdivision, including the costs of preparing an application. The department shall provide an annual accounting to the Department of Finance and the relevant legislative committees of the use of those funds in accordance with the purposes outlined in Proposition 40 (the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Bond Act of 2002 (Chapter 1.696 (commencing with Section 5096.600) of Division 5) and Proposition 84 (the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Division 43 (commencing with Section 75001))), voter-approved bond acts.

(2) The guidelines prepared pursuant to paragraph (1) shall require that applications for funding include all of the following:

(A) A clear description of the proposed use of funds, including maps and other drawings, as applicable.

(B) A market analysis demonstrating demand for the project or service.

(C) The projected lifespan of the project, which must be at least 20 years for a proposed capital project.

(D) A projection of revenues, including the specific assumptions for annual income, fees, occupancy rates, pricing, and other relevant criteria upon which the projection is based.

(E) A projection of costs, including, but not limited to, design, planning, construction, operation, staff, maintenance, marketing, and information technology.

(F) The timeframe for implementation, including all necessary reviews and permitting.

(G) The projected net return on investment of the life of the project.

(H) Provisions providing for mandatory reporting on the project by districts to the department.

(f) The department shall rank all of the proposals and award loans for projects or other activities to districts based on the following criteria, as well as other considerations that the department considers relevant:

(1) Return on investment.

(2) Length of time for implementation.

(3) Length of time for the project debt to be retired.

(4) Percentage of total project costs paid by the district or by a source of matching funds.

(5) Annual operating costs.

(6) Capacity of project to improve services or park experiences, or both, for park visitors.

(g) The funds generated by the revenue generation program shall not be used by the department to expand the park system, unless there is significant revenue generation potential from such an expansion.

(h) Notwithstanding Section 5009, moneys received by the department from private contributions and other public funding sources may also be deposited into the California State Park

Enterprise Fund for use for the purposes of subdivision (c) and subdivision (d).

(i) The department shall provide all relevant information on its Internet Web site concerning how the working capital funds are spent, including the guidelines and the department's ranking criteria for each funded loan agreement.

(j) A project agreement shall be negotiated between the department and a park unit and the total amount of requested project costs shall be allocated to the district as soon as is feasible when the agreement is finalized.

(k) The department may recoup its costs for implementing and administering the working capital from the fund.

SEC. 5. Section 5080.42 of the Public Resources Code is amended to read:

5080.42. (a) Notwithstanding any other provision of this article, the department may enter into an operating agreement with a qualified nonprofit organization for the development, improvement, restoration, care, maintenance, administration, or operation of a unit or units, or portion of a unit, of the state park system, as agreed to by the director. If the department enters into an operating agreement that involves the operation of the entirety of a park unit, that agreement may be entered into pursuant to this section only to the extent that the agreement would enable the department to avoid closure of a unit or units of the state park system that may otherwise be subject to closure. The prohibition on park closures, pursuant to subdivision (a) of Section 541.5, does not limit the department's authority to enter into an operating agreement pursuant to this section, as provided in subdivision (e) of Section 541.5. The department may only enter into an operating agreement that involves the operation of the entirety of a park unit for no more than 20 park units. An operating agreement with a qualified nonprofit organization shall include, but shall not be limited to, the following conditions:

(1) The district superintendent for the department shall provide liaison with the department, the nonprofit organization, and the public.

(2) The nonprofit organization shall annually submit a written report to the department regarding its operating activities during the prior year and shall make copies of the report available to the public upon request. The report shall be available on the Internet

Web sites of both the department and the nonprofit organization. The report shall include a full accounting of all revenues and expenditures for each unit of the state park system that the nonprofit organization operates pursuant to an operating agreement.

(3) (A) Except as provided in subparagraph (B), all revenues that the qualified nonprofit organization receives from a unit shall be expended only for the care, maintenance, operation, administration, improvement, or development of the unit. The qualified nonprofit organization may additionally contribute in-kind services and funds raised from outside entities for the care, maintenance, operation, administration, improvement, or development of the unit.

(B) If the qualified nonprofit organization determines that the revenues it has received from a unit are in excess of the revenues that are needed for the care, maintenance, operation, administration, improvement, or development of that unit, and that these funds are not already specified for or committed to specific purposes pursuant to an existing agreement or contract restricting the use of those funds, the qualified nonprofit organization may dedicate those excess revenues to another state park unit for that unit's care, maintenance, operation, administration, improvement, or development.

(4) General Fund moneys shall not be provided to a nonprofit organization to subsidize the operation or maintenance of a park unit. This paragraph applies to state parks, the full operation of which are turned over to a nonprofit organization, but does not apply to or preclude the department from entering into agreements with nonprofit organizations to operate a portion of a state park unit, or from entering into comanagement agreements with nonprofit organizations that involve the sharing of operational and financial responsibilities for the park unit and that have the effect of reducing state costs. This paragraph does not apply to park entrance fees, concession revenues, or any other revenues generated within a park operated by a nonprofit organization pursuant to this section.

(b) An operating agreement entered into pursuant to subdivision (a) shall honor the existing term of a current concession contract for the state park unit subject to the operating agreement.

(c) An operating agreement entered into pursuant to subdivision (a) shall specify the duties that the nonprofit organization shall be

responsible for carrying out relative to management and protection of natural, historical, and cultural resources, and shall identify those management duties that shall continue to be conducted by the department, so that all core operations of the park are delineated. Scientific, architectural, and engineering functions that require special expertise or professional training shall only be conducted by or under the supervision of qualified persons with applicable expertise or training and subject to oversight by the department.

(d) This section does not supersede the requirements of Section 5019.53 regarding the protection of natural, scenic, cultural, and ecological values.

(e) The nonprofit organization and the district superintendent for the department shall, following submittal of the annual report pursuant to subdivision (a), hold a joint public meeting for discussion of the report.

(f) If the department intends to enter into an operating agreement for the development, improvement, restoration, care, maintenance, administration, or operation of a unit or units, or a portion of a unit, the department shall notify the Member of the Legislature in whose district the unit is located, the Chair of the Senate Committee on Natural Resources and Water, the Chair of the Assembly Committee on Water, Parks and Wildlife, and the chairs of the Assembly and Senate budget committees of that intention. The notification shall include estimated operating costs and revenues and core duties and responsibilities that are likely to be assigned to the nonprofit organization and the department.

(g) For purposes of this section, a qualified nonprofit organization is an organization that is all of the following:

(1) An organization that is exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code.

(2) An organization that has as its principal purpose and activity to provide visitor services in state parks, facilitate public access to park resources, improve park facilities, provide interpretive and educational services, or provide direct protection or stewardship of natural, cultural, or historical lands, or resources.

(3) An organization that is in compliance with the Supervision of Trustees and Fundraisers for Charitable Purposes Act, Article 7 (commencing with Section 12580) of Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code.

(h) (1) Notwithstanding Section 10231.5 of the Government Code, the department shall provide a report to the Legislature, on a biennial basis, of the status of operating agreements it has entered into pursuant to this section. The report shall include a list of units of the state park system with operating agreements, discussion of the management and operations of each unit subject to an operating agreement, an accounting of the revenues and expenditures incurred under each operating agreement, and an assessment of the benefit to the state from operating agreements entered into pursuant to this section.

(2) A report submitted pursuant to paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

(i) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to enable the state to as soon as possible enter into partnerships and generate the revenues necessary to keep state parks open to the public, and to preserve the parks' vital role in ensuring healthy communities, it is necessary that this bill take effect immediately.

Approved _____, 2013

Governor

Assembly Bill No. 757

Passed the Assembly August 22, 2013

Chief Clerk of the Assembly

Passed the Senate August 19, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add and repeal Section 11016.7 of the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

AB 757, Roger Hernández. Department of Parks and Recreation: payroll review report.

Existing law requires that state agencies, as defined, comply with statutes and regulations governing various aspects of their operation, including the adoption of policies and regulations, hiring, transactions, and compensation.

This bill would require the Department of Parks and Recreation to report to the Legislature on its implementation of the recommendations contained in the Controller's "Payroll Review Report of the Department of Parks and Recreation" dated December 18, 2012.

The people of the State of California do enact as follows:

SECTION 1. Section 11016.7 is added to the Government Code, to read:

11016.7. (a) (1) The Department of Parks and Recreation shall report on its implementation of the Controller's recommendations contained in the "State Controller's Payroll Review Report of the Department of Parks and Recreation" dated December 18, 2012, pursuant to this section to the Legislature on or before July 31, 2014.

(2) The report shall be submitted in compliance with Section 9795.

(b) This section shall remain in effect only until December 31, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before December 31, 2014, deletes or extends that date.

Approved _____, 2013

Governor

AMENDED IN ASSEMBLY MAY 24, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 988

Introduced by Assembly Member Jones

February 22, 2013

An act to amend Sections 285, 286, 296, 331.1, 331.2, 426, 672, 3051, 11701, 11704.5, 11710, and 11723 of the Vehicle Code, relating to recreational off-highway vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 988, as amended, Jones. New Motor Vehicle Board: recreational off-highway vehicles.

Existing law establishes the New Motor Vehicle Board that regulates the activities or practices of a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch, or representative, as those terms are defined by the Vehicle Code. Existing law requires licensing by the Department of Motor Vehicles to do these activities for specified types of vehicles.

Existing law defines a recreational off-highway vehicle as a motor vehicle designed by the manufacturer for operation primarily off of the highway that has a steering wheel, nonstraddle seating, a maximum speed capability of greater than 30 miles an hour, and an engine displacement equal to or less than 1,000cc.

This bill would include the activities and practices of recreational off-highway vehicle dealers, manufacturers, manufacturer branches, distributors, distributor branches, or representatives within the scope of regulation by the board.

This bill would require these entities to make application to the Department of Motor Vehicles for a license, but would exempt them

from the written examination and education program requirements. The bill would require an applicant for a dealer’s license for a dealer who deals exclusively in recreational off-highway vehicles to procure and file a bond with the department in the amount of \$10,000 before a license is issued or renewed. The bill would also require the holders of these licenses and the dealers, manufacturers, manufacturer branches, distributors, distributor branches, and representatives to pay fees for the issuance and renewal of a license.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 285 of the Vehicle Code is amended to
 2 read:
 3 285. “Dealer” is a person not otherwise expressly excluded by
 4 Section 286 who:
 5 (a) For commission, money, or other thing of value, sells,
 6 exchanges, buys, or offers for sale, negotiates or attempts to
 7 negotiate, a sale or exchange of an interest in, a vehicle subject to
 8 registration, a motorcycle, snowmobile, all-terrain vehicle, or
 9 recreational off-highway vehicle subject to identification under
 10 this code, or a trailer subject to identification pursuant to Section
 11 5014.1, or induces or attempts to induce any person to buy or
 12 exchange an interest in a vehicle and, who receives or expects to
 13 receive a commission, money, brokerage fees, profit, or any other
 14 thing of value, from either the seller or purchaser of the vehicle.
 15 (b) Is engaged wholly or in part in the business of selling
 16 vehicles or buying or taking in trade, vehicles for the purpose of
 17 resale, selling, or offering for sale, or consigned to be sold, or
 18 otherwise dealing in vehicles, whether or not the vehicles are
 19 owned by the person.
 20 SEC. 2. Section 286 of the Vehicle Code is amended to read:
 21 286. The term “dealer” does not include any of the following:
 22 (a) Insurance companies, banks, finance companies, public
 23 officials, or any other person coming into possession of vehicles
 24 in the regular course of business, who sells vehicles under a
 25 contractual right or obligation, in performance of an official duty,
 26 or in authority of any court of law, if the sale is for the purpose of
 27 saving the seller from loss or pursuant to the authority of a court.

1 (b) Persons who sell or distribute vehicles of a type subject to
2 registration or trailers subject to identification pursuant to Section
3 5014.1 for a manufacturer to vehicle dealers licensed under this
4 code, or who are employed by manufacturers or distributors to
5 promote the sale of vehicles dealt in by those manufacturers or
6 distributors. However, any of those persons who also sell vehicles
7 at retail are vehicle dealers and are subject to this code.

8 (c) Persons regularly employed as salespersons by vehicle
9 dealers licensed under this code while acting within the scope of
10 that employment.

11 (d) Persons engaged exclusively in the bona fide business of
12 exporting vehicles or of soliciting orders for the sale and delivery
13 of vehicles outside the territorial limits of the United States, if no
14 federal excise tax is legally payable or refundable on any of the
15 transactions. Persons not engaged exclusively in the bona fide
16 business of exporting vehicles, but who are engaged in the business
17 of soliciting orders for the sale and delivery of vehicles, outside
18 the territorial limits of the United States are exempt from licensure
19 as dealers only if their sales of vehicles produce less than 10
20 percent of their total gross revenue from all business transacted.

21 (e) Persons not engaged in the purchase or sale of vehicles as
22 a business, who dispose of any vehicle acquired and used in good
23 faith, for their own personal use, or for use in their business, and
24 not for the purpose of avoiding the provisions of this code.

25 (f) Persons who are engaged in the purchase, sale, or exchange
26 of vehicles, other than motorcycles, all-terrain vehicles, recreational
27 off-highway vehicles, or trailers subject to identification under
28 this code, that are not intended for use on the highways.

29 (g) Persons temporarily retained as auctioneers solely for the
30 purpose of disposing of vehicle stock inventories by means of
31 public auction on behalf of the owners at the owners' place of
32 business, or as otherwise approved by the department, if
33 intermediate physical possession or control of, or an ownership
34 interest in, the inventory is not conveyed to the persons so retained.

35 (h) Persons who are engaged exclusively in the business of
36 purchasing, selling, servicing, or exchanging racing vehicles, parts
37 for racing vehicles, and trailers designed and intended by the
38 manufacturer to be used exclusively for carrying racing vehicles.
39 For purposes of this subdivision, "racing vehicle" means a motor
40 vehicle of a type used exclusively in a contest of speed or in a

1 competitive trial of speed which is not intended for use on the
2 highways.

3 (i) A person who is a lessor.

4 (j) A person who is a renter.

5 (k) A salvage pool.

6 (l) A yacht broker who is subject to the Yacht and Ship Brokers
7 Act (Article 2 (commencing with Section 700) of Chapter 5 of
8 Division 3 of the Harbors and Navigation Code) and who sells
9 used boat trailers in conjunction with the sale of a vessel.

10 (m) A licensed automobile dismantler who sells vehicles that
11 have been reported for dismantling as provided in Section 11520.

12 (n) The Director of Corrections when selling vehicles pursuant
13 to Section 2813.5 of the Penal Code.

14 (o) (1) Any public or private nonprofit charitable, religious, or
15 educational institution or organization that sells vehicles if all of
16 the following conditions are met:

17 (A) The institution or organization qualifies for state tax-exempt
18 status under Section 23701d of the Revenue and Taxation Code,
19 and tax-exempt status under Section 501(c)(3) of the federal
20 Internal Revenue Code.

21 (B) The vehicles sold were donated to the nonprofit charitable,
22 religious, or educational institution or organization.

23 (C) The vehicles subject to retail sale meet all of the applicable
24 equipment requirements of Division 12 (commencing with Section
25 24000) and are in compliance with emission control requirements
26 as evidenced by the issuance of a certificate pursuant to subdivision
27 (b) of Section 44015 of the Health and Safety Code. Under no
28 circumstances may any institution or organization transfer the
29 responsibility of obtaining a smog inspection certificate to the
30 buyer of the vehicle.

31 (D) The proceeds of the sale of the vehicles are retained by that
32 institution or organization for its charitable, religious, or
33 educational purposes.

34 (2) An institution or organization described in paragraph (1)
35 may sell vehicles on behalf of another institution or organization
36 under the following conditions:

37 (A) The nonselling institution or organization meets the
38 requirements of paragraph (1).

1 (B) The selling and nonselling institutions or organizations enter
2 into a signed, written agreement pursuant to subparagraph (A) of
3 paragraph (3) of subdivision (a) of Section 1660.

4 (C) The selling institution or organization transfers the proceeds
5 from the sale of each vehicle to the nonselling institution or
6 organization within 45 days of the sale. All net proceeds transferred
7 to the nonselling institution or organization shall clearly be
8 identifiable to the sale of a specific vehicle. The selling institution
9 or organization may retain a percentage of the proceeds from the
10 sale of a particular vehicle. However, any retained proceeds shall
11 be used by the selling institution or organization for its charitable,
12 religious, or educational purposes.

13 (D) At the time of transferring the proceeds, the selling
14 institution or organization shall provide to the nonselling institution
15 or organization, an itemized listing of the vehicles sold and the
16 amount for which each vehicle was sold.

17 (E) In the event the selling institution or organization cannot
18 complete a retail sale of a particular vehicle, or if the vehicle cannot
19 be transferred as a wholesale transaction to a dealer licensed under
20 this code, the vehicle shall be returned to the nonselling institution
21 or organization and the written agreement revised to reflect that
22 return. Under no circumstances may a selling institution or
23 organization transfer or donate the vehicle to a third party that is
24 excluded from the definition of a dealer under this section.

25 (3) An institution or organization described in this subdivision
26 shall retain all records required to be retained pursuant to Section
27 1660.

28 (p) A motor club, as defined in Section 12142 of the Insurance
29 Code, that does not arrange or negotiate individual motor vehicle
30 purchase transactions on behalf of its members but refers members
31 to a new motor vehicle dealer for the purchase of a new motor
32 vehicle and does not receive a fee from the dealer contingent upon
33 the sale of the vehicle.

34 SEC. 3. Section 296 of the Vehicle Code is amended to read:

35 296. A “distributor” is any person other than a manufacturer
36 who sells or distributes new vehicles subject to registration under
37 this code, new trailers subject to identification pursuant to Section
38 5014.1, or new off-highway motorcycles, all-terrain vehicles, or
39 recreational off-highway vehicles subject to identification under
40 this code, to dealers in this state and maintains representatives for

1 the purpose of contacting dealers or prospective dealers in this
2 state.

3 SEC. 4. Section 331.1 of the Vehicle Code is amended to read:

4 331.1. A “franchisee” is any person who, pursuant to a
5 franchise, receives new motor vehicles subject to registration under
6 this code, new off-highway motorcycles, as defined in Section
7 436, new all-terrain vehicles, as defined in Section 111, new
8 recreational off-highway vehicles, as defined in Section 500, or
9 new trailers subject to identification pursuant to Section 5014.1
10 from the franchisor and who offers for sale or lease, or sells or
11 leases the vehicles at retail or is granted the right to perform
12 authorized warranty repairs and service, or the right to perform
13 any combination of these activities.

14 SEC. 5. Section 331.2 of the Vehicle Code is amended to read:

15 331.2. A “franchisor” is any person who manufactures,
16 assembles, or distributes new motor vehicles subject to registration
17 under this code, new off-highway motorcycles, as defined in
18 Section 436, new all-terrain vehicles, as defined in Section 111,
19 new recreational off-highway vehicles, as defined in Section 500,
20 or new trailers subject to identification pursuant to Section 5014.1
21 and who grants a franchise.

22 SEC. 6. Section 426 of the Vehicle Code is amended to read:

23 426. “New motor vehicle dealer” is a dealer, as defined in
24 Section 285, who, in addition to the requirements of that section,
25 either acquires for resale new and unregistered motor vehicles
26 from manufacturers or distributors of those motor vehicles or
27 acquires for resale new off-highway motorcycles, new all-terrain
28 vehicles, or new recreational off-highway vehicles from
29 manufacturers or distributors of the vehicles. A distinction shall
30 not be made, nor any different construction be given to the
31 definition of “new motor vehicle dealer” and “dealer” except for
32 the application of the provisions of Chapter 6 (commencing with
33 Section 3000) of Division 2 and Section 11704.5. Sections 3001
34 and 3003 do not, however, apply to a dealer who deals exclusively
35 in motorcycles, all-terrain vehicles, recreational off-highway
36 vehicles, or recreational vehicles, as defined in subdivision (a) of
37 Section 18010 of the Health and Safety Code.

38 SEC. 7. Section 672 of the Vehicle Code is amended to read:

39 672. (a) “Vehicle manufacturer” is any person who produces
40 from raw materials or new basic components a vehicle of a type

1 subject to registration under this code, off-highway motorcycles,
2 all-terrain vehicles, or recreational off-highway vehicles, subject
3 to identification under this code, or trailers subject to identification
4 pursuant to Section 5014.1, or who permanently alters, for purposes
5 of retail sales, new commercial vehicles by converting the vehicles
6 into house cars that display the insignia of approval required by
7 Section 18056 of the Health and Safety Code and any regulations
8 issued pursuant thereto by the Department of Housing and
9 Community Development. As used in this section, “permanently
10 alters” does not include the permanent attachment of a camper to
11 a vehicle.

12 (b) A vehicle manufacturer that produces a vehicle of a type
13 subject to registration that consists of used or reconditioned parts,
14 for the purposes of the code, is a remanufacturer, as defined in
15 Section 507.8.

16 (c) Unless a vehicle manufacturer either grants franchises to
17 franchisees in this state, or issues vehicle warranties directly to
18 franchisees in this state or consumers in this state, the manufacturer
19 shall have an established place of business or a representative in
20 this state.

21 (d) The scope and application of this section are limited to
22 Division 2 (commencing with Section 1500) and Division 5
23 (commencing with Section 11100).

24 SEC. 8. Section 3051 of the Vehicle Code is amended to read:

25 3051. This chapter does not apply to any person licensed as a
26 transporter under Article 1 (commencing with Section 11700) or
27 as a salesperson under Article 2 (commencing with Section 11800)
28 of Chapter 4 of Division 5, or to any licensee who is not a new
29 motor vehicle dealer, motor vehicle manufacturer, manufacturer
30 branch, new motor vehicle distributor, distributor branch, or
31 representative. This chapter does not apply to transactions
32 involving “mobilehomes,” as defined in Section 18008 of the
33 Health and Safety Code, “recreational vehicles,” as defined in
34 subdivision (b) of Section 18010 of the Health and Safety Code,
35 truck campers, “commercial coaches,” as defined in Section
36 18001.8 of the Health and Safety Code, or off-highway motor
37 vehicles subject to identification, as defined in Section 38012,
38 except off-highway motorcycles, as defined in Section 436,
39 all-terrain vehicles, as defined in Section 111, and recreational
40 off-highway vehicles, as defined in Section 500. Except as

1 otherwise provided in this chapter, this chapter applies to a new
2 motor vehicle dealer, a dealer of new recreational vehicles, as
3 defined in subdivision (a) of Section 18010 of the Health and
4 Safety Code, except a dealer who deals exclusively in truck
5 campers, a vehicle manufacturer as defined in Section 672, a
6 manufacturer branch as defined in Section 389, a distributor as
7 defined in Section 296, a distributor branch as defined in Section
8 297, a representative as defined in Section 512, or an applicant
9 therefor.

10 SEC. 9. Section 11701 of the Vehicle Code is amended to read:

11 11701. Every manufacturer, manufacturer branch,
12 remanufacturer, remanufacturer branch, distributor, distributor
13 branch, transporter, or dealer of vehicles of a type subject to
14 registration, or snowmobiles, motorcycles, all-terrain vehicles,
15 recreational off-highway vehicles, or trailers of a type subject to
16 identification, shall make application to the department for a license
17 containing a general distinguishing number. The applicant shall
18 submit proof of his or her status as a bona fide manufacturer,
19 manufacturer branch, remanufacturer, remanufacturer branch,
20 distributor, distributor branch, transporter, or dealer as may
21 reasonably be required by the department.

22 SEC. 10. Section 11704.5 of the Vehicle Code is amended to
23 read:

24 11704.5. (a) Except as provided in subdivision (e), every
25 person who applies for a dealer's license pursuant to Section 11701
26 for the purpose of transacting sales of used vehicles on a retail or
27 wholesale basis only shall be required to take and successfully
28 complete a written examination prepared and administered by the
29 department before a license may be issued. The examination shall
30 include, but need not be limited to, all of the following laws and
31 subjects:

32 (1) Division 12 (commencing with Section 24000), relating to
33 equipment of vehicles.

34 (2) Advertising.

35 (3) Odometers.

36 (4) Vehicle licensing and registration.

37 (5) Branch locations.

38 (6) Offsite sales.

39 (7) Unlawful dealer activities.

40 (8) Handling, completion, and disposition of departmental forms.

1 (b) Prior to the first taking of an examination under subdivision
2 (a), every applicant shall successfully complete a preliminary
3 educational program of not less than four hours. The program shall
4 address, but not be limited to, all of the following topics:

5 (1) Chapter 2B (commencing with Section 2981) of Title 14 of
6 Part 4 of Division 3 of the Civil Code, relating to motor vehicle
7 sales finance.

8 (2) Motor vehicle financing.

9 (3) Truth in lending.

10 (4) Sales and use taxes.

11 (5) Division 12 (commencing with Section 24000), relating to
12 equipment of vehicles.

13 (6) Advertising.

14 (7) Odometers.

15 (8) Vehicle licensing and registration.

16 (9) Branch locations.

17 (10) Offsite sales.

18 (11) Unlawful dealer activities.

19 (12) Air pollution control requirements.

20 (13) Regulations of the Bureau of Automotive Repair.

21 (14) Handling, completion, and disposition of departmental
22 forms.

23 (c) (1) Except as provided in paragraph (2) or (3), every dealer
24 who is required to complete a written examination and an
25 educational program pursuant to subdivisions (a) and (b) and who
26 is thereafter issued a dealer's license shall successfully complete,
27 every two years after issuance of that license, an educational
28 program of not less than four hours that offers instruction in the
29 subjects listed under subdivision (a) and the topics listed under
30 subdivision (b), in order to maintain or renew that license.

31 (2) A dealer is not required to complete the educational program
32 set forth in paragraph (1) if the educational program is completed
33 by a managerial employee employed by the dealer.

34 (3) Paragraph (1) does not apply to dealers who sell vehicles
35 on a wholesale basis only and who, in a one-year period, deal with
36 less than 50 vehicles that are subject to registration.

37 (d) Instruction described in subdivisions (b) and (c) may be
38 provided by generally accredited educational institutions, private
39 vocational schools, and educational programs and seminars offered
40 by professional societies, organizations, trade associations, and

1 other educational and technical programs that meet the
 2 requirements of this section or by the department.

3 (e) This section does not apply to any of the following:

4 (1) An applicant for a new vehicle dealer’s license or any
 5 employee of that dealer.

6 (2) A person who holds a valid license as an automobile
 7 dismantler, an employee of that dismantler, or an applicant for an
 8 automobile dismantler’s license.

9 (3) An applicant for a motorcycle only dealer’s license or any
 10 employee of that dealer.

11 (4) An applicant for a trailer only dealer’s license or any
 12 employee of that dealer.

13 (5) An applicant for an all-terrain only dealer’s license or any
 14 employee of that dealer.

15 (6) An applicant for a recreational off-highway vehicle only
 16 dealer’s license or any employee of that dealer.

17 SEC. 11. Section 11710 of the Vehicle Code is amended to
 18 read:

19 11710. (a) Before any dealer’s or remanufacturer’s license is
 20 issued or renewed by the department to any applicant therefor, the
 21 applicant shall procure and file with the department a bond
 22 executed by an admitted surety insurer, approved as to form by
 23 the Attorney General, and conditioned that the applicant shall not
 24 practice any fraud or make any fraudulent representation which
 25 will cause a monetary loss to a purchaser, seller, financing agency,
 26 or governmental agency.

27 (b) A dealer’s bond shall be in the amount of fifty thousand
 28 dollars (\$50,000), except the bond of a dealer who deals exclusively
 29 in motorcycles ~~or~~, all-terrain vehicles, *or recreational off-highway*
 30 *vehicles* shall be in the amount of ten thousand dollars (\$10,000).
 31 Before the license is renewed by the department, the dealer, other
 32 than a dealer who deals exclusively in motorcycles, all-terrain
 33 vehicles, or recreational off-highway vehicles, shall procure and
 34 file a bond in the amount of fifty thousand dollars (\$50,000). A
 35 remanufacturer bond shall be in the amount of fifty thousand
 36 dollars (\$50,000).

37 (c) Liability under the bond is to remain at full value. If the
 38 amount of liability under the bond is decreased or there is
 39 outstanding a final court judgment for which the dealer or
 40 remanufacturer and sureties are liable, the dealer’s or

1 remanufacturer's license shall be automatically suspended. In order
2 to reinstate the license and special plates, the licensee shall either
3 file an additional bond or restore the bond on file to the original
4 amount, or shall terminate the outstanding judgment for which the
5 dealer or remanufacturer and sureties are liable.

6 (d) A dealer's or remanufacturer's license, or renewal of the
7 license, shall not be issued to any applicant therefor, unless and
8 until the applicant files with the department a good and sufficient
9 instrument, in writing, in which the applicant appoints the director
10 as the true and lawful agent of the applicant upon whom all process
11 may be served in any action, or actions, which may thereafter be
12 commenced against the applicant, arising out of any claim for
13 damages suffered by any firm, person, association, or corporation,
14 by reason of the violation of the applicant of any of the terms and
15 provisions of this code or any condition of the dealer's or
16 remanufacturer's bond. The applicant shall stipulate and agree in
17 the appointment that any process directed to the applicant, when
18 personal service of process upon the applicant cannot be made in
19 this state after due diligence and, in that case, is served upon the
20 director or, in the event of the director's absence from the office,
21 upon any employee in charge of the office of the director, shall be
22 of the same legal force and effect as if served upon the applicant
23 personally. The applicant shall further stipulate and agree, in
24 writing, that the agency created by the appointment shall continue
25 for and during the period covered by any license that may be issued
26 and so long thereafter as the applicant may be made to answer in
27 damages for a violation of this code or any condition of the bond.
28 The instrument appointing the director as the agent for the applicant
29 for service of process shall be acknowledged by the applicant
30 before a notary public. In any case where the licensee is served
31 with process by service upon the director, one copy of the summons
32 and complaint shall be left with the director or in the director's
33 office in Sacramento or mailed to the office of the director in
34 Sacramento. A fee of five dollars (\$5) shall also be paid to the
35 director at the time of service of the copy of the summons and
36 complaint. Service on the director shall be a sufficient service on
37 the licensee if a notice of service and a copy of the summons and
38 complaint are immediately sent by registered mail by the plaintiff
39 or the plaintiff's attorney to the licensee. A copy of the summons
40 and complaint shall also be mailed by the plaintiff or the plaintiff's

1 attorney to the surety on the applicant’s bond at the address of the
 2 surety given in the bond, postpaid and registered with request for
 3 return receipt. The director shall keep a record of all process so
 4 served upon the director, which record shall show the day and hour
 5 of service and shall retain the summons and complaint so served
 6 on file. Where the licensee is served with process by service upon
 7 the director, the licensee shall have and be allowed 30 days from
 8 and after the service within which to answer any complaint or other
 9 pleading which may be filed in the cause. However, for purposes
 10 of venue, where the licensee is served with process by service upon
 11 the director, the service is deemed to have been made upon the
 12 licensee in the county in which the licensee has or last had an
 13 established place of business.

14 SEC. 12. Section 11723 of the Vehicle Code is amended to
 15 read:

16 11723. The board may require that fees shall be paid to the
 17 department for the issuance or renewal of a license to do business
 18 as a new motor vehicle dealer, dealer branch, manufacturer,
 19 manufacturer branch, distributor, distributor branch, or
 20 representative. The fees shall be to reimburse the department for
 21 costs incurred in licensing those dealers, manufacturers,
 22 distributors, branches, and representatives and for related
 23 administrative costs incurred on behalf of the board. The board
 24 may also require that an additional fee be paid to the department
 25 when the licensee has failed to pay the fee authorized by Section
 26 3016 prior to the expiration of its occupational license and special
 27 plates and the licensee utilizes the 30-day late renewal period
 28 authorized by subdivision (c) of Section 11717.

29 This section shall not apply to dealers, manufacturers,
 30 distributors, or representatives of vehicles not subject to registration
 31 under this code, except dealers, manufacturers, manufacturer
 32 branches, distributors, distributor branches, or representatives of,
 33 off-highway motorcycles, as defined in Section 436, all-terrain
 34 vehicles, as defined in Section 111, recreational off-highway
 35 vehicles, as defined in Section 500, and trailers subject to
 36 identification pursuant to Section 5014.1.

O

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1142

Introduced by Assembly Member Bloom

February 22, 2013

An act to ~~amend~~ *add* Section ~~14574~~ of 5008.9 to the Public Resources Code, relating to ~~beverage containers~~ *beaches and parks*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1142, as amended, Bloom. ~~Beverage containers: redemption payments.~~ *State beaches and parks: smoking ban.*

Existing law makes it an infraction for a person to smoke a cigarette, cigar, or other tobacco-related product within 25 feet of a playground or tot lot sandbox area.

This bill would make it an infraction for a person to smoke, as defined, a pipe, cigar, or cigarette on a state coastal beach or in a unit of the state park system, as defined. The bill would establish a state-mandated local program by creating a new crime.

This bill would require the Department of Parks and Recreation to develop and post signs at a state coastal beach or a unit of the state park system to provide notice of the smoking prohibition, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law, the California Beverage Container Recycling and Litter Reduction Act, requires a beverage container distributor to pay a~~

redemption payment to the Department of Resources Recycling and Recovery (CalRecycle) in a specified manner. CalRecycle is required to deposit those amounts in the California Beverage Container Recycling Fund, which is continuously appropriated to CalRecycle to implement the act.

~~This bill would make technical, nonsubstantive changes to the provision regarding the redemption payment.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
 State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 5008.9 is added to the Public Resources
- 2 Code, to read:
- 3 5008.9. (a) For purposes of this section, the following
- 4 definitions apply:
- 5 (1) “Cigar” has the same meaning as defined in Section 104550
- 6 of the Health and Safety Code.
- 7 (2) “Cigarette” has the same meaning as defined in Section
- 8 104556 of the Health and Safety Code.
- 9 (3) “Smoke or smoking” means the carrying of a lighted pipe,
- 10 lighted cigar, or lighted cigarette, of any kind, or the lighting of
- 11 a pipe, cigar, or cigarette, of any kind, including, but not limited
- 12 to, tobacco or any other weed or plant.
- 13 (4) “State coastal beach” means an area that is owned,
- 14 operated, or under the jurisdiction of the state, an agency of the
- 15 state, or a department of the state and that adjoins the ocean, a
- 16 bay, or an estuary.
- 17 (5) “Unit of the state park system” means an area specified in
- 18 Section 5002.
- 19 (b) A person shall not smoke a cigar, cigarette, or other
- 20 tobacco-related product on a state coastal beach or in a unit of
- 21 the state park system.
- 22 (c) A person shall not dispose of used cigar, cigarette, or
- 23 tobacco-related product waste within the boundaries of an area
- 24 in which it is prohibited by this section.
- 25 (d) A person who violates this section is guilty of an infraction
- 26 and shall be punished by a fine of two hundred fifty dollars (\$250).
- 27 (e) The Department of Parks and Recreation shall develop and
- 28 post signs at a state coastal beach and a unit of the state park

1 system to provide notice of the smoking prohibition set forth in
2 subdivision (b). Signs shall be posted no later than January 1,
3 2016.

4 SEC. 2. No reimbursement is required by this act pursuant to
5 Section 6 of Article XIII B of the California Constitution because
6 the only costs that may be incurred by a local agency or school
7 district will be incurred because this act creates a new crime or
8 infraction, eliminates a crime or infraction, or changes the penalty
9 for a crime or infraction, within the meaning of Section 17556 of
10 the Government Code, or changes the definition of a crime within
11 the meaning of Section 6 of Article XIII B of the California
12 Constitution.

13 SECTION 1. ~~Section 14574 of the Public Resources Code is~~
14 ~~amended to read:~~

15 ~~14574. (a) (1) A distributor of beverage containers shall pay~~
16 ~~to the department the redemption payment for every beverage~~
17 ~~container, other than a refillable beverage container, sold or~~
18 ~~transferred to a dealer, less 1.5 percent for the distributor's~~
19 ~~administrative costs.~~

20 ~~(2) The payment made by a distributor shall be submitted not~~
21 ~~later than the last day of the month following the sale. The~~
22 ~~distributor shall submit the payment in the form and manner that~~
23 ~~the department prescribes.~~

24 ~~(b) (1) Notwithstanding subdivision (a), if a distributor displays~~
25 ~~a pattern of operation in compliance with this division and the~~
26 ~~regulations adopted pursuant to this division, to the satisfaction of~~
27 ~~the department, the distributor may submit a single annual payment~~
28 ~~of redemption payments, if the distributor's projected redemption~~
29 ~~payment for a calendar year totals less than seventy-five thousand~~
30 ~~dollars (\$75,000).~~

31 ~~(2) An annual redemption payment made pursuant to this~~
32 ~~subdivision is due and payable on or before February 1 for every~~
33 ~~beverage container sold or transferred by the distributor to a dealer~~
34 ~~in the previous calendar year.~~

35 ~~(3) A distributor shall notify the department of its intent to~~
36 ~~submit an annual redemption payment pursuant to this subdivision~~
37 ~~on or before January 31 of the calendar year for which the payment~~
38 ~~will be due.~~

Introduced by Senator DeSaulnier

January 31, 2013

An act to repeal Section 5205 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 151, as introduced, DeSaulnier. Vehicles: license plates.

Existing law requires the Department of Motor Vehicles, upon registering a motor vehicle, to issue a license plate or plates to the owner of the vehicle to identify the vehicle for which the plates are issued for the period of their validity. The license plates are required to be attached to the vehicle for which they were issued, as specified, and to remain attached during the period of validity while the vehicle is being operated or held for sale within this state. Existing law authorizes the department to make appropriate rules and regulations for the use and display of stickers or devices issued in lieu of license plates, and to publish a summary thereof.

This bill would repeal that latter provision.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 5205 of the Vehicle Code is repealed.
- 2 ~~5205. The department may make appropriate rules and~~
- 3 ~~regulations for the use and display of stickers or devices issued in~~
- 4 ~~lieu of license plates, and shall publish a summary thereof.~~

O

Senate Bill No. 234

CHAPTER 179

An act to amend Sections 38603 and 38604 of, the Vehicle Code, relating to recreational off-highway vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 27, 2013. Filed with
Secretary of State August 27, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

SB 234, Walters. Recreational off-highway vehicles.

(1) Existing law establishes rules for the operation of off-highway vehicles, including specified requirements governing the operation of recreational off-highway vehicles. A violation of these rules and requirements is a crime. Existing law prohibits a person who is operating a recreational off-highway vehicle from allowing a passenger to occupy a separate seat location not designed and provided by the manufacturer for a passenger.

This bill would make these provisions applicable only to a recreational off-highway vehicle with a model year of 2014 or later. For vehicles with a model year of 2013 or earlier, the bill would allow seats that are installed in a separate seat location not designed and provided by the manufacturer for a passenger to be occupied if the occupant of the seat is fully contained inside of the vehicle's rollover protection structure at all times while the vehicle is being operated. Because a violation of these provisions would be a crime, this bill would impose a state-mandated local program.

(2) Existing law prohibits a person from operating a recreational off-highway vehicle from riding with a passenger, unless the passenger, while seated upright with his or her back against the seatback, can grasp the occupant handhold with the seatbelt and shoulder belt or safety harness properly fastened while seated upright.

This bill would define occupant handhold for these purposes, and would require occupant handholds to be designed to allow the recreational off-highway vehicle passenger to exit the vehicle without interference from the handholds. Because a violation of these provisions would be a crime, this bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 38603 of the Vehicle Code is amended to read:

38603. (a) A person operating a recreational off-highway vehicle with a model year of 2014 or later shall not allow a passenger to occupy a separate seat location not designed and provided by the manufacturer for a passenger.

(b) Seats that are installed in a separate seat location not designed and provided by the manufacturer for a passenger in vehicles with model year of 2013 or earlier may be occupied by a passenger if the occupant of the seat is fully contained inside of the vehicle's rollover protection structure at all times while the vehicle is being operated.

SEC. 2. Section 38604 of the Vehicle Code is amended to read:

38604. (a) A person operating a recreational off-highway vehicle shall not ride with a passenger, unless the passenger, while seated upright with his or her back against the seatback, can grasp the occupant handhold with the seatbelt and shoulder belt or safety harness properly fastened.

(b) For purposes of this chapter, "occupant handhold" means any factory or aftermarket device grasped by an occupant to provide support and to assist in keeping arms and hands within the recreational off-highway vehicle. The steering wheel shall be considered an occupant handhold for the recreational off-highway vehicle operator.

(c) Occupant handholds shall be designed to allow the recreational off-highway vehicle passenger to exit the vehicle without interference from the handholds.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to allow sufficient time to implement recently enacted provisions of law regarding recreational off-highway vehicles, it is necessary that this act take effect immediately.

AMENDED IN SENATE MAY 7, 2013
AMENDED IN SENATE APRIL 24, 2013

SENATE BILL

No. 241

**Introduced by Senator Evans
(Principal coauthor: Senator Jackson)
(Coauthors: Senators Beall, Block, DeSaulnier, Hancock, Leno,
Liu, and Wolk)**

February 12, 2013

An act to add Part 21 (commencing with Section 42001) to Division 2 of the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 241, as amended, Evans. Oil Severance Tax Law.

Existing law imposes various taxes, including taxes on the privilege of engaging in certain activities. The Fee Collection Procedures Law, the violation of which is a crime, provides procedures for the collection of certain fees and surcharges.

This bill would impose an oil and gas severance tax upon any operator, as defined, for the privilege of severing oil or gas from the earth or water in this state for sale, transport, consumption, storage, profit, or use, as provided, at the specified ~~notes~~ rates, calculated as provided. The tax would be administered by the State Board of Equalization and would be collected pursuant to the procedures set forth in the Fee Collection Procedures Law. The bill would require the board to deposit all tax revenues, penalties, and interest collected pursuant to these provisions into the California Higher Education Fund, a continuously appropriated fund created by this bill, for allocation to the Regents of the University of California, the Trustees of the California State

University, the Board of Governors of the California Community Colleges, and the Department of Parks and Recreation, *and to a reserve account*, as provided.

Because this bill would expand the scope of the Fee Collection Procedures Law, the violation of which is a crime, it would impose a state-mandated local program.

This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
 State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Part 21 (commencing with Section 42001) is
 2 added to Division 2 of the Revenue and Taxation Code, to read:

3

4 PART 21. OIL SEVERANCE TAX LAW

5

6 42001. This part shall be known and may be cited as the Oil
 7 Severance Tax Law.

8 42002. For purposes of this part, the following definitions shall
 9 apply:

10 (a) "Barrel of oil" means 42 United States gallons of 231 cubic
 11 inches per gallon computed at a temperature of 60 degrees
 12 Fahrenheit.

13 (b) "California Higher Education Fund" or "CHEF" means the
 14 fund that is created by Section 42147.

15 (c) "Gas" means all natural gas, including casing head gas, and
 16 all other hydrocarbons not defined as oil in subdivision (f).

17 (d) "Division" means the Division of Oil, Gas, and Geothermal
 18 Resources in the Department of Conservation.

19 (e) "In this state" means within the exterior limits of the State
 20 of California and includes all territory within these limits owned

1 by or ceded to the United States of America. “In this state” includes
2 the mean high tide line to three nautical miles offshore.

3 (f) “Oil” means petroleum, or other crude oil, condensate, casing
4 head gasoline, or other mineral oil that is mined, produced, or
5 withdrawn from below the surface of the soil or water.

6 (g) “Operator” means a person that, by virtue of ownership, or
7 under the authority of a lease or any other agreement, has the right
8 to drill, operate, maintain, or control an oil or gas well in the earth
9 or water in this state, including any person that takes oil or gas
10 from the earth or water in this state in any manner, any person that
11 owns, controls, manages, or leases any oil or gas well in the earth
12 or water of this state, and any person that produces or extracts in
13 any manner any oil or gas by taking it from the earth or water in
14 this state; and includes the first person that acquires either the legal
15 title or beneficial title to oil or gas taken from the earth or water
16 in this state by the federal government or a federal instrumentality.

17 (h) “Political subdivision of the state” includes any local public
18 entity, as defined in Section 900.4 of the Government Code.

19 (i) “Severed” or “severing” means the extraction or withdrawing
20 from below the surface of the earth or water of any oil or gas,
21 regardless of whether the extraction or withdrawal shall be by
22 natural flow, mechanical flow, forced flow, pumping, or any other
23 means employed to get the oil or gas from below the surface of
24 the earth or water, and shall include the extraction or withdrawal
25 by any means whatsoever of oil or gas upon which the tax has not
26 been paid, from any surface reservoir, natural or artificial, or from
27 a water surface.

28 (j) ~~Stripper~~ “Stripper well” means a well that has been certified
29 by the division as an oil well incapable of producing an average
30 of more than 10 barrels of oil per day during the entire calendar
31 month or a gas well that is incapable of producing more than
32 60,000 cubic feet of gas per day. Once a well has been certified
33 as a stripper well, that stripper well shall remain certified as a
34 stripper well until the well produces an average of more than 10
35 barrels of oil per day during an entire calendar month.

36 (k) “Unit of gas” means 1,000 cubic feet (mcf) measured at a
37 base pressure of 15.025 pounds per square inch absolute and at a
38 temperature base of 60 degrees Fahrenheit.

39 42010. (a) (1) An oil and gas severance tax is hereby imposed
40 upon any operator for the privilege of severing oil or gas from the

1 earth or water in this state at the rate of ~~9.5%~~ *9.5 percent* of the
2 average price per barrel of California oil or ~~_____%~~ *3.5 percent* of
3 the average price per unit of gas, as calculated pursuant to this
4 section.

5 (2) (A) On or before December 1, 2013, and June 1, 2014, and
6 on or before those dates of each year thereafter, the division shall
7 determine the average price per barrel of California oil for the
8 six-month period ending on the preceding October 31 and April
9 30, respectively. The price of California oil shall be based on the
10 first purchase price for California Midway-Sunset crude oil as
11 determined by the United States Energy Information
12 Administration's (EIA) First Purchase Report. In the event the
13 EIA First Purchase Report is delayed or discontinued, the division
14 may base its determination on other sources of first purchase prices
15 of California oil.

16 (B) On or before December 1, 2013, and June 1, 2014, and on
17 or before those dates of each year thereafter, the division shall
18 determine the average price per unit of gas for the six-month period
19 ending on the preceding October 31 and April 30, respectively.
20 The price of gas shall be based on California's price for gas as
21 determined by the United States Energy Information
22 Administration's (EIA) Report. In the event the EIA Report is
23 delayed or discontinued, the division may base its determination
24 on other sources of city gate prices of California gas.

25 (C) The division shall notify the board of its determinations
26 pursuant to subparagraphs (A) and (B), on or before December 1,
27 2013, and June 1, 2014, and on or before those dates on each year
28 thereafter.

29 (b) Any person that owns an interest, including a royalty interest,
30 in oil or its value, is liable for the tax until it has been paid to the
31 board.

32 42012. The tax imposed by this part shall be in addition to any
33 other taxes imposed by law, including, without limitation, any ad
34 valorem taxes imposed by the state, or any political subdivision
35 of the state, or any local business license taxes that may be incurred
36 for the privilege of severing oil or gas from the earth or water or
37 doing business in that locality. There shall be no exemption from
38 the payment of an ad valorem tax related to equipment, material,
39 or other property by reason of the payment of the severance tax
40 pursuant to this part.

1 ~~42013. (a) The tax imposed by this part shall not be passed~~
2 ~~through to consumers by way of higher prices for oil, natural gas,~~
3 ~~gasoline, diesel, or other oil or gas consumable byproducts, such~~
4 ~~as propane and heating oil. The board shall monitor and, if~~
5 ~~necessary, investigate any instance where operators or purchasers~~
6 ~~of the oil or gas have attempted to gouge consumers by using the~~
7 ~~tax as a pretext to materially raise the price of oil, natural gas,~~
8 ~~gasoline, diesel, or other oil or gas consumable byproducts, such~~
9 ~~as propane and heating oil.~~

10 ~~(b) The board may prescribe, adopt, and enforce rules and~~
11 ~~regulations relating to the administration and enforcement of this~~
12 ~~section.~~

13 ~~(c) Any operator that fails to comply with this section shall pay~~
14 ~~a penalty in an amount specified by the board not to exceed _____~~
15 ~~dollars (\$_____) for each instance the operator violates this section,~~
16 ~~as defined by the board in the regulatory process.~~

17 ~~(d) This section applies when not superseded by federal law.~~

18 42014. Two or more operators that are owned or controlled
19 directly or indirectly, as defined in Section 25105, by the same
20 interests shall be considered as a single operator for purposes of
21 application of the tax prescribed in this part.

22 42015. (a) There shall be exempted from the imposition of
23 the oil and gas severance tax imposed pursuant to this part, the
24 severance of oil or gas produced by a stripper well when, as
25 determined pursuant to Section 42010, the average price per barrel
26 of California oil is _____ dollars (\$_____) or less, or when the
27 average price per unit of gas is _____ dollars (\$_____) or less *well,*
28 *unless the well produces more than five barrels per month.*

29 (b) The division shall notify the board of all wells that have
30 been certified as stripper wells.

31 42016. There shall be exempted from the imposition of the tax
32 imposed pursuant to this part all oil, gas, or both oil and gas owned
33 or produced by the state or any political subdivision of the state,
34 including such public entity's proprietary share of oil or gas
35 produced under any unit, cooperative, or other pooling agreement.

36 42019. Each operator shall prepare and file with the board a
37 return in the form prescribed by the board containing information
38 as the board deems necessary or appropriate for the proper
39 administration of this part. The return shall be filed on or before
40 the last day of the calendar month following the calendar quarter

1 to which it relates, together with a remittance payable to the board
2 for the amount of tax due for that period.

3 42145. (a) The board shall administer and collect the tax
4 imposed by this part pursuant to the Fee Collection Procedures
5 Law (Part 30 (commencing with Section 55001)). For purposes
6 of this part, the references in the Fee Collection Procedures Law
7 to “fee” shall include the tax imposed by this part and references
8 to “feepayer” shall include any person liable for the payment of
9 the tax imposed by this part.

10 (b) The board may prescribe, adopt, and enforce regulations
11 relating to the administration and enforcement of this part,
12 including, but not limited to, provisions governing collections,
13 reporting, refunds, and appeals.

14 (c) The board may prescribe, adopt, and enforce emergency
15 regulations relating to the administration and enforcement of this
16 part. Any emergency regulations prescribed, adopted, or enforced
17 pursuant to this section shall be adopted in accordance with Chapter
18 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
19 Title 2 of the Government Code, and, for purposes of that chapter,
20 including Section 11349.6 of the Government Code, the adoption
21 of these regulation is an emergency and shall be considered by the
22 Office of Administrative Law as necessary for the immediate
23 preservation of the public peace, health and safety, and general
24 welfare.

25 42147. (a) All taxes, interest, penalties, and other amounts
26 collected pursuant to this part, less refunds and costs of
27 administration, shall be deposited *first into the General Fund and*
28 *then* into the California Higher Education Fund, which is hereby
29 created in the State Treasury. Notwithstanding Section 13340 of
30 the Government Code, moneys in the fund are continuously
31 appropriated, without regard to fiscal year, as follows:

32 (1) ~~Ninety-three~~ *Ninety* percent of the moneys in the fund, in
33 equal shares, to the Regents of the University of California, the
34 Trustees of the California State University, and the Board of
35 Governors of the California Community Colleges for the general
36 support of those institutions.

37 (2) ~~Seven~~ *Five* percent of the moneys in the fund to the
38 Department of Parks and Recreation for the maintenance and
39 improvement of state parks.

1 (3) *Five percent of the moneys in the fund to a reserve account*
2 *in the fund which shall only be used in a disaster as proclaimed*
3 *by the Governor.*

4 (b) Revenues, less refunds, derived pursuant to Section 42013
5 for deposit in the California Higher Education Fund pursuant to
6 this section shall be deemed “General Fund revenues,” “General
7 Fund proceeds of taxes,” and “moneys to be applied by the State
8 for the support of school districts and community college districts”
9 for purposes of Section 8 of Article XVI.

10 (c) *Any local property tax reductions that may result from the*
11 *imposition of the tax by this part shall be reimbursed from the*
12 *revenues received from the imposition of the tax.*

13 42148. *Funds allocated pursuant to this part shall supplement,*
14 *and not supplant, existing funding sources and amounts.*

15 SEC. 2. No reimbursement is required by this act pursuant to
16 Section 6 of Article XIII B of the California Constitution because
17 the only costs that may be incurred by a local agency or school
18 district will be incurred because this act creates a new crime or
19 infraction, eliminates a crime or infraction, or changes the penalty
20 for a crime or infraction, within the meaning of Section 17556 of
21 the Government Code, or changes the definition of a crime within
22 the meaning of Section 6 of Article XIII B of the California
23 Constitution.

Introduced by Senator Fuller

February 19, 2013

An act to amend Section 38603 of the Vehicle Code, relating to recreational off-highway vehicles, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 334, as introduced, Fuller. Recreational off-highway vehicles: seat location: passengers.

Existing law, operative on July 1, 2013, prohibits a person operating a recreational off-highway vehicle from allowing a passenger to occupy a separate seat location not designed and provided by the manufacturer for a passenger.

This bill would instead make these provisions operative on January 1, 2015.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 38603 of the Vehicle Code is amended
- 2 to read:
- 3 38603. (a) A person operating a recreational off-highway
- 4 vehicle shall not allow a passenger to occupy a separate seat
- 5 location not designed and provided by the manufacturer for a
- 6 passenger.

1 (b) This section shall become operative on ~~July 1, 2013~~ *January*
2 *1, 2015*.

3 SEC. 2. This act is an urgency statute necessary for the
4 immediate preservation of the public peace, health, or safety within
5 the meaning of Article IV of the Constitution and shall go into
6 immediate effect. The facts constituting the necessity are:

7 In order to allow sufficient time to implement recently enacted
8 provisions of law regarding recreational off-highway vehicles, it
9 is necessary that this act take effect immediately.

O

113TH CONGRESS
1ST SESSION

H. R. 1776

To establish the Clear Creek National Recreation Area in San Benito and Fresno Counties, to designate the Joaquin Rocks Wilderness in such counties, to designate additional components of the national wild and scenic rivers system, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 26, 2013

Mr. FARR (for himself, Mr. VALADAO, and Mr. DENHAM) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To establish the Clear Creek National Recreation Area in San Benito and Fresno Counties, to designate the Joaquin Rocks Wilderness in such counties, to designate additional components of the national wild and scenic rivers system, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Clear Creek National
5 Recreation Area and Conservation Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) MANAGEMENT PLAN.—The term “manage-
2 ment plan” means the Plan for the Recreation Area
3 prepared under section 4(c).

4 (2) RECREATION AREA.—The term “Recreation
5 Area” means the Clear Creek National Recreation
6 Area.

7 (3) SECRETARY.—The term “Secretary” means
8 the Secretary of the Interior.

9 (4) STATE.—The term “State” means the State
10 of California.

11 **SEC. 3. ESTABLISHMENT OF CLEAR CREEK NATIONAL**
12 **RECREATION AREA.**

13 (a) IN GENERAL.—To promote environmentally re-
14 sponsible high-quality motorized and non-motorized trail
15 based recreation, including off-highway vehicle use, scenic
16 touring, access for hunting and gem collecting, while pro-
17 tecting ecological, geological, scenic, cultural, and historic
18 resources, fish and wildlife values, and other resources of
19 the landscape, there is established the Clear Creek Na-
20 tional Recreation Area in the State, to be managed by the
21 Secretary.

22 (b) BOUNDARIES.—The Recreation Area shall consist
23 of approximately 75,000 acres of Federal land in San Be-
24 nito County and Fresno County, California, as generally

1 depicted on the map entitled “Clear Creek National Recre-
2 ation Area” and dated July 30, 2012.

3 (c) MAP.—

4 (1) IN GENERAL.—As soon as practicable, after
5 the date of the enactment of this Act, the Secretary
6 shall submit a map and legal description of the
7 Recreation Area to—

8 (A) the Committee on Natural Resources
9 of the House of Representatives; and

10 (B) the Committee on Energy and Natural
11 Resources of the Senate.

12 (2) AVAILABILITY.—Copies of the map sub-
13 mitted under paragraph (1) shall be on file and
14 available for public inspection in—

15 (A) the Office of the Director of the Bu-
16 reau of Land Management; and

17 (B) the appropriate office of the Bureau of
18 Land Management in California.

19 **SEC. 4. MANAGEMENT.**

20 (a) IN GENERAL.—The Secretary shall manage the
21 Recreation Area to further the purposes described in sec-
22 tion 3(a), in accordance with—

23 (1) this Act;

24 (2) the Federal Land Policy and Management
25 Act of 1976 (43 U.S.C. 1701 et seq.); and

1 (3) any other applicable law.

2 (b) USES.—The Secretary shall—

3 (1) allow hiking, camping, hunting, gem col-
4 lecting, and sightseeing and the use of motorized ve-
5 hicles, mountain bikes, and horses on designated
6 roads, trails, and areas;

7 (2) issue special recreation permits for motor-
8 ized and non-motorized events; and

9 (3) reopen the Clear Creek Management Area
10 to the uses described in this subsection as soon as
11 practicable following the enactment of this Act and
12 in accordance with the management guidelines out-
13 lined in this Act and other applicable law.

14 (c) INTERIM MANAGEMENT PLAN.—The Secretary
15 shall use the 2005 Clear Creek Management Area Travel
16 Management Plan as modified by this Act, or by the Sec-
17 retary to incorporate natural resource protection informa-
18 tion not available in 2005, as the basis of an interim man-
19 agement plan to govern motorized recreation within the
20 Recreation Area pending the completion of the long-term
21 management plan required in subsection (d).

22 (d) PERMANENT MANAGEMENT PLAN.—Not later
23 than 2 years after the date of the enactment of this Act,
24 the Secretary shall create a comprehensive management
25 plan for the Clear Creek Recreation Area that—

1 (1) shall describe the appropriate uses and
2 management of the Recreation Area in accordance
3 with this Act;

4 (2) shall be prepared in consultation with—

5 (A) appropriate Federal, State, and local
6 agencies (including San Benito, Monterey, and
7 Fresno Counties);

8 (B) adjacent land owners; and

9 (C) other stakeholders (including conserva-
10 tion and recreational organizations);

11 (3) shall include a hazards education program
12 to inform people entering the Recreation Area of the
13 asbestos related risks associated with various activi-
14 ties within the Recreation Area, including, but not
15 limited to, off-highway vehicle recreation;

16 (4) shall include a user fee program for motor-
17 ized vehicle use within the Recreational Area and
18 guidelines for the use of the funds collected for the
19 management and improvement of the Recreation
20 Area;

21 (5) may incorporate any appropriate decisions,
22 as determined by the Secretary, in accordance with
23 this Act, that are contained in any management or
24 activity plan for the area completed before the date
25 of the enactment of this Act;

1 (6) may incorporate appropriate wildlife habitat
2 management plans or other plans prepared for the
3 land within or adjacent to the Recreation Area be-
4 fore the date of the enactment of this Act, in accord-
5 ance with this Act;

6 (7) may use information developed under any
7 studies of land within or adjacent to the Recreation
8 Area carried out before the date of enactment of this
9 Act; and

10 (8) may include cooperative agreements with
11 State or local government agencies to manage all or
12 a portion of the recreational activities within the
13 Recreation Area in accordance with an approved
14 management plan and the requirements of this Act.

15 (e) ACQUISITION OF PROPERTY.—

16 (1) IN GENERAL.—The Secretary may acquire
17 land adjacent to the National Recreation Area by
18 purchase from willing sellers, donation, or exchange.

19 (2) MANAGEMENT.—Any land acquired under
20 paragraph (1) shall be managed in accordance
21 with—

22 (A) the Federal Land Policy and Manage-
23 ment Act of 1976 (43 U.S.C. 1701 et seq.);

24 (B) this Act; and

1 (C) any other applicable law (including
2 regulations).

3 (3) IMPROVED ACCESS.—The Secretary may ac-
4 quire by purchase from willing sellers, donation, ex-
5 change, or easement, land, or interest in land to im-
6 prove public safety in providing access to the Recre-
7 ation Area.

8 (f) PRIVATE PROPERTY.—

9 (1) ACCESS TO PRIVATE PROPERTY.—

10 (A) IN GENERAL.—The Secretary shall
11 provide landowners adequate access to in-
12 holdings within the Recreation Area.

13 (B) INHOLDINGS.—For access purposes,
14 private land adjacent to the Recreation Area to
15 which there is no other practicable access ex-
16 cept through the Recreation Area shall be man-
17 aged as an inholding.

18 (2) USE OF PRIVATE PROPERTY.—Nothing in
19 this Act affects the ownership, management, or
20 other rights relating to any non-Federal land (in-
21 cluding any interest in any non-Federal land).

22 (3) BUFFER ZONES.—Nothing in this Act cre-
23 ates a protective perimeter or buffer zone around the
24 Recreation Area.

1 (4) VALID RIGHTS.—Nothing in this Act affects
2 any easements, rights-of-way, and other valid rights
3 in existence on the date of the enactment of this
4 Act.

5 (g) WATER RIGHT EXCLUSION.—Nothing in this
6 Act—

7 (1) shall constitute or be construed to con-
8 stitute either an express or implied reservation by
9 the United States of any water or water rights with
10 respect to the Recreation Area; or

11 (2) shall affect any water rights existing on the
12 date of the enactment of this Act.

13 (h) HUNTING AND FISHING.—Nothing in this Act—

14 (1) limits hunting or fishing; or

15 (2) affects the authority, jurisdiction, or respon-
16 sibility of the State to manage, control, or regulate
17 fish and resident wildlife under State law (including
18 regulations), including the regulation of hunting or
19 fishing on public land managed by the Bureau of
20 Land Management.

21 (i) MOTORIZED VEHICLES.—Except in cases in which
22 motorized vehicles are needed for administrative purposes
23 or to respond to an emergency, the use of motorized vehi-
24 cles on public land in the Recreation Area shall be per-

1 mitted only on roads, trails, and areas designated by the
2 management plan for the use by motorized vehicles.

3 (j) GRAZING.—In the Recreation Area, the grazing
4 of livestock in areas in which grazing is allowed as of the
5 date of the enactment of this Act shall be allowed to con-
6 tinue, consistent with—

7 (1) this Act;

8 (2) the Federal Land Policy and Management
9 Act of 1976 (43 U.S.C. 1701 et seq.); and

10 (3) any regulations promulgated by the Sec-
11 retary, acting through the Director of the Bureau of
12 Land Management.

13 (k) WITHDRAWAL.—Subject to valid existing rights,
14 all Federal land within the Recreation Area is withdrawn
15 from—

16 (1) all forms of entry, appropriation, and dis-
17 posal under the public land laws;

18 (2) location, entry, and patenting under the
19 mining laws; and

20 (3) operation of the mineral leasing, mineral
21 materials, and geothermal leasing laws.

22 (l) FEES.—Amounts received by the Secretary under
23 the fee structure required by subsection (c)(3)(G) shall
24 be—

1 (1) deposited in a special account in the Treas-
2 ury of the United States; and

3 (2) made available until expended, without fur-
4 ther appropriation, to the Secretary for use in the
5 Recreation Area.

6 (m) RISK STANDARD.—The National Oil and Haz-
7 ardous Substances Pollution Contingency Plan (40 C.F.R.
8 300), published pursuant to section 105 of the Com-
9 prehensive Environmental Response, Compensation, and
10 Liability Act of 1980 (42 U.S.C. 9605), shall not apply
11 to the Secretary’s management of asbestos exposure risks
12 faced by the public when recreating within the Clear Creek
13 Recreation Area described in section 3(b).

14 **SEC. 5. JOAQUIN ROCKS WILDERNESS.**

15 In accordance with the Wilderness Act (16 U.S.C.
16 1131 et seq.), the approximately 21,000 acres of Federal
17 lands located in Fresno County and San Benito County,
18 California, and generally depicted on a map entitled “Pro-
19 posed Joaquin Rocks Wilderness” and dated April 16,
20 2013, is designated as wilderness and as a component of
21 the National Wilderness Preservation System and shall be
22 known as the “Joaquin Rocks Wilderness”.

1 **SEC. 6. CLEAR CREEK MANAGEMENT AREA WILD AND SCE-**
2 **NIC RIVERS.**

3 Section 3(a) of the Wild and Scenic Rivers Act (16
4 U.S.C. 1274(a)) is amended by adding at the end the fol-
5 lowing paragraphs:

6 “(____) LARIOUS CANYON.—The approximately
7 5.25 miles of Larious Canyon Creek from its source
8 near Idria Peak in Section 6, R12E, T18S, to the
9 boundary of the Clear Creek Special Recreation
10 Management Area in Section 23, R11E, T17S.

11 “(____) SAN CARLOS CREEK.—The approxi-
12 mately 5.51 miles of the East Fork San Carlos
13 Creek from its source near San Benito Mountain in
14 Section 10, R12E, T18S, to the boundary of the
15 Clear Creek Special Recreation Management Area in
16 Section 22, R12E, T17S.

17 “(____) CANTUA CREEK.—The approximately
18 7.68 miles of Cantua Creek from its source north of
19 Santa Rita Peak in Section 24, R12E, T18S, to the
20 public land boundary in Section 3, R13E, T18S.

21 “(____) PICACHO CREEK.—The approximately
22 2.65 miles of Picacho Creek, from its source spring
23 in Section 20, R12E, T18S, to its confluence with
24 the San Benito River.

25 “(____) WHITE CREEK AND TRIBUTARIES.—

1 “(A) The approximately 5.37 miles of
2 White Creek, from its source in Section 36,
3 R12E, T18S, to the boundary of the Clear
4 Creek Special Recreation Management Area in
5 Section 17, R13E, T19S.

6 “(B) The approximately 2.29 miles of the
7 unnamed tributary of White Creek from its
8 source just south of Spanish Lake in Section
9 29, R13E, T18S, to its confluence with White
10 Creek.

11 “(C) The approximately 2.45 miles of the
12 unnamed tributary of White Creek from its
13 source in Section 33, R13E, T18S, to its con-
14 fluence with White Creek.”.

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