



## OHMVR COMMISSION MEETING Redding, CA

March 23, 2013

**STAFF REPORT:** Legislative Update

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

**SUBJECT:** California Legislation

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### 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 March 1, 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 1595 (Cook) & Assembly Bill 1266 (Nielson) Recreational Off-Highway Vehicles**

**Summary:** In 2012, AB 1595 defined recreational off-highway vehicles (ROHVs) and prescribed safety standards for their use in California. The bill requires the following:

- An ROHV operator must be at least 16 years old or be directly supervised by a parent, guardian, or adult authorized by a parent or guardian.
- ROHV operators and passengers must wear safety helmets as well as seat belts and shoulder belts or safety harnesses that are properly fastened when the vehicle is moving.
- All passengers must occupy seats provided by the manufacturer.
- An ROHV passenger must be able to grasp the occupant handhold with the seat shoulder belt or safety harness fastened while seated upright with his or her back up against the seatback and with both feet flat on the floorboard.

After AB 1595 passed, many concerns were raised about the unintended consequences of the legislation. In response, AB 1266 (Nielson) was quickly passed in 2012 to eliminate the requirement that both feet must be flat on the floorboard. This bill also delayed implementation of the manufacturer seat requirement until July 1, 2013.

These new laws created operational difficulties for many families with young children and people with disabilities. It also made many previously modified ROHVs illegal despite the fact that they were purchased and modified legally under existing laws before the new requirements were in place. In 2013 three new bills (AB 64, SB 234 and AB 334) were proposed to rectify some of the consequences of AB 1595 and AB 1266.

**Status:** AB 1595 and AB 1266 Legislation was approved by Governor Edmund G. Brown, and both become effective on January 1, 2013.

### **Assembly Bill 64 (Donnelly): Recreational Off-Highway Vehicles**

**Summary:** An act to amend provisions added by the passage of AB 1595 and AB 1266 to Sections 38601 and 38603 of the Vehicle Code, relating to vehicles.

- Existing law, operative on July 1, 2013, prohibits a person from allowing a passenger in a ROHV unless the passenger is wearing a safety helmet. This bill would provide that this prohibition does not apply to a passenger secured in a child safety seat.
- Existing law, operative on July 1, 2013, prohibits a person operating a ROHV from allowing a passenger to occupy a separate seat location not designed and provided by the manufacturer for a passenger. This bill would provide that this prohibition does not apply to any vehicle manufactured prior to January 1, 2014.

**Status:** Active - 2/7/2013 the bill was last amended. On 2/11/2013 the bill was re-referred to the Committee on Transportation.

### **Senate Bill 234 (Walters): Recreational Off-Highway Vehicles**

**Summary:** An act to amend Sections 38601 and 38603 of, and to repeal Section 38604 of, the Vehicle Code, relating to ROHVs.

- (1) Existing law, operative on July 1, 2013, prohibits a person from allowing a passenger in a ROHV unless the passenger is wearing a safety helmet. This bill would make this prohibition inapplicable to a child who is secured in an appropriate child passenger restraint system meeting specified requirements.
- (2) Existing law, operative on July 1, 2013, prohibits a person who is operating a ROHV 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 ROHV 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.

- (3) Existing law, operative on July 1, 2013, prohibits a person from operating a ROHV 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 repeal these provisions.

**Status:** Active - 2/21/2013 the bill was referred to the Committee on Transportation and Housing. Hearing date 4/02/13.

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

**Summary:** An act to amend Section 38603 of the Vehicle Code, relating to ROHVs, and declaring the urgency thereof, to take effect immediately.

Existing law, operative on July 1, 2013, prohibits a person operating a ROHV 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.

**Status:** Active - 2/28/2013 the bill was referred to the Committee on Transportation and Housing. Hearing Date 4/02/2013.

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

**Summary:** An act to add Section 5011.6 to the Public Resources Code. This bill would require any veteran of such a war who was honorably discharged, or a current active duty soldier for the United States Armed Forces, upon application:

- Issued a pass entitling the bearer of the pass to the use of any unit of the state park system on Memorial Day and Veterans Day if certain conditions are met.
- When the veteran or active duty soldier enters the park in a vehicle, the bill would require all occupants in the vehicle to have their entrance fee waived.

**Status:** Active - 2/07/13 the bill was referred to the Committee on Water, Parks and Wildlife. Hearing date 4/02/13.

### **Senate Bill 151 (DeSaulnier). Vehicles: License Plates**

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

**Status:** Active - 2/14/13 the bill was referred to the Committee on Transportation and Housing.

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

**Summary:** An act to amend Section 5011.5 of the Public Resources Code. This bill would make the recipient of a Purple Heart eligible for the pass. The bill further defines the terms “veteran” and “war” which are used to determine the eligibility of the pass recipient.

**Status:** Active - 2/28/13 the bill was referred to the Committee on Water, Parks and Wildlife. Hearing date 4/02/13.

### **Assembly Bill 594 (Hueso): State Park Operating Agreements**

**Summary:** An act to amend Sections 541.5 and 5080.42 of the Public Resources Code, relating to State Parks. The bill identifies the roles and responsibilities of the department and organizations that enter into operating agreements to manage parks to avoid closure.

The bill would amend Section 541.5 of the Public Resources Code to include: 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 sustainable funding strategy for the department to the Legislature on or before January 1, 2015.

The bill would also appropriate \$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:

- \$10,000,000 shall be available to provide for matching funds.

- \$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.
- Up to \$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.

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.

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.

This bill would amend Section 5080.42 of the Public Resources to include: 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 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 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:

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

- Except as provided 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.
- 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.

General Fund moneys shall 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 co-management 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.

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

Operating agreements entered into 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.

The nonprofit organization and the district superintendent for the department shall, following submittal of the annual report, hold a joint public meeting for discussion of the report.

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.
- The chairs of the Assembly and Senate budget committees.
- 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.

The bill provides language of a “qualified nonprofit organization.” The bill requires the department to 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.
- Accounting of the revenues and expenditures incurred under each operating agreement.
- Assessment of the benefit to the state from operating agreements entered into pursuant to this section.

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.

**Status:** Active - 3/04/13. The bill may be added to Committee on Water, Parks and Wildlife.

### **Assembly Bill 757 (Hernández): Approval and tracking of out-of class assignments**

**Summary:** An act to add and repeal Section 11016.7 of the Government Code, relating to state government. This bill would require the Department of Parks and Recreation to adopt regulations by July 31, 2014, that would address specified issues regarding the

approval and tracking of employees working in out-of-class assignments as identified in an audit by the Controller, and report to the Legislature.

**Status:** Active - 2/22/13. The bill may be added to Committee on Water, Parks and Wildlife on March 20 or 24, 2013.

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

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

- (1) This bill would include the activities and practices of ROHV dealers, manufacturers, manufacturer branches, distributors, distributor branches, or representatives within the scope of regulation by the board.
- (2) 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.
- (3) The bill would require an applicant for a dealer's license for a dealer who deals exclusively in ROHVs to procure and file a bond with the department in the amount of \$10,000 before a license is issued or renewed.
- (4) 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.

**Status:** Active - On 2/25/13 read for the first time.

**Commission Action**

For information only

**Attachments**

AB 1595 - Full Text; AB 1266 - Full Text; AB 64 - as amended; SB 234; SB 334; AB 150; SB 151; AB 315; AB 594; AB 757; AB 988

## Assembly Bill No. 1595

### CHAPTER 165

An act to amend Section 38012 of, to add Section 500 to, and to add Chapter 8 (commencing with Section 38600) to Division 16.5 of, the Vehicle Code, relating to vehicles.

[Approved by Governor July 24, 2012. Filed with  
Secretary of State July 24, 2012.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1595, Cook. Vehicles: recreational off-highway vehicles.

(1) Existing law establishes rules for the operation of, and requirements for equipment of, an off-highway vehicle. A violation of these rules and requirements is a crime.

This bill would define an off-highway motor vehicle to include a recreational off-highway vehicle, as defined. The bill would establish additional requirements governing the operation of a recreational off-highway vehicle. Because a violation of these provisions is a crime, this bill would impose a state-mandated local program.

(2) 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.

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

SECTION 1. Section 500 is added to the Vehicle Code, to read:

500. "Recreational off-highway vehicle" means a motor vehicle meeting all of the following criteria:

(a) Designed by the manufacturer for operation primarily off of the highway.

(b) Has a steering wheel for steering control.

(c) Has nonstraddle seating provided by the manufacturer for the operator and all passengers.

(d) (1) Has a maximum speed capability of greater than 30 miles per hour.

(2) A vehicle designed by the manufacturer with a maximum speed capability of 30 miles per hour or less but is modified so that it has a maximum speed capability of greater than 30 miles per hour satisfies the criteria set forth in this subdivision.

(e) Has an engine displacement equal to or less than 1,000cc (61 ci).

SEC. 2. Section 38012 of the Vehicle Code is amended to read:

38012. (a) As used in this division, “off-highway motor vehicle subject to identification” means a motor vehicle subject to subdivision (a) of Section 38010.

(b) As used in this division, “off-highway motor vehicle” includes, but is not limited to, the following:

(1) A motorcycle or motor-driven cycle, except for any motorcycle that is eligible for a special transportation identification device issued pursuant to Section 38088.

(2) A snowmobile or other vehicle designed to travel over snow or ice, as defined in Section 557.

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

(4) A motor vehicle commonly referred to as a jeep.

(5) A recreational off-highway vehicle as defined in Section 500.

SEC. 3. Chapter 8 (commencing with Section 38600) is added to Division 16.5 of the Vehicle Code, to read:

#### CHAPTER 8. RECREATIONAL OFF-HIGHWAY VEHICLES

38600. A person operating a recreational off-highway vehicle shall be at least 16 years of age, or be directly supervised in the vehicle by a parent or guardian or by an adult authorized by the parent or guardian.

38601. A person shall not operate, or allow a passenger in, a recreational off-highway vehicle unless the person and the passenger are wearing safety helmets meeting the requirements established for motorcycles and motorized bicycles pursuant to Section 27802.

38602. A person operating, and any passenger in, a recreational off-highway vehicle shall wear a seatbelt and shoulder belt or safety harness that is properly fastened when the vehicle is in motion.

38603. A person operating a recreational off-highway vehicle shall not allow a passenger to occupy a separate seat location not designed and provided by the manufacturer for a passenger.

38604. 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 with both feet flat on the floorboard, can grasp the occupant handhold with the seatbelt and shoulder belt or safety harness properly fastened.

SEC. 4. 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.

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## Assembly Bill No. 1266

### CHAPTER 529

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

[Approved by Governor September 25, 2012. Filed with Secretary of State September 25, 2012.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1266, Nielsen. Vehicles: recreational off-highway vehicles.

(1) Existing law, commencing January 1, 2013, establishes rules for the operation of, and requirements for equipment of, an off-highway vehicle, including prohibiting 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. Existing law, commencing January 1, 2013, prohibits a person operating a recreational off-highway vehicle from riding with a passenger, unless the passenger, among other things, have both feet flat on the floorboard.

This bill would delay operation of the prohibition that a person operating a recreational off-highway vehicle shall not allow a passenger to occupy a separate seat location not designed and provided by the manufacturer for a passenger until July 1, 2013, and would eliminate the requirement that both of the passengers feet must be flat on the floorboard.

(2) 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, as added by Section 3 of Chapter 165 of the Statutes of 2012, is amended to read:

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

(b) This section shall become operative on July 1, 2013.

SEC. 2. Section 38604 of the Vehicle Code, as added by Section 3 of Chapter 165 of the Statutes of 2012, is amended to read:

38604. 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.

SEC. 3. 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 protect off-highway vehicle operators, passengers, and the public from acts that could lead to harm or death, and in order to avoid unnecessary implementation that could cost the state money and take away resources from other important activities, it is necessary that this act take effect immediately.

AMENDED IN ASSEMBLY FEBRUARY 7, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 64**

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**Introduced by Assembly Member Donnelly**

January 7, 2013

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An act to ~~repeal Chapter 8 (commencing with Section 38600) of Division 16.5~~ amend Sections 38601 and 38603 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 64, as amended, Donnelly. Vehicles: recreational off-highway vehicles.

**Existing**

*(1) Existing law establishes rules for the operation of off-highway vehicles, including specified requirements governing the operation of recreational off-highway vehicles. These provisions prohibiting 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, and from riding with a passenger, unless the passenger, among other things, can grasp the occupant handhold with the seatbelt and shoulder belt or safety harness properly fastened while seated upright. Existing law prohibits a person from allowing a passenger in a recreational off-highway vehicle unless the passenger is wearing a safety helmet.*

~~This bill would repeal all provisions applicable to the operation of recreational off-highway vehicles.~~

*This bill would provide that this prohibition does not apply to a passenger secured in a child safety seat.*

(2) Existing law 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 provide that this prohibition does not apply to any vehicle manufactured prior to January 1, 2014.

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

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

1 SECTION 1. ~~Chapter 8 (commencing with Section 38600) of~~  
2 ~~Division 16.5 of the Vehicle Code is repealed.~~

3 SECTION 1. Section 38601 of the Vehicle Code is amended to  
4 read:

5 38601. (a) A person shall not operate, or allow a passenger  
6 in, a recreational off-highway vehicle unless the person and the  
7 passenger are wearing safety helmets meeting the requirements  
8 established for motorcycles and motorized bicycles pursuant to  
9 Section 27802.

10 (b) This section shall not apply to a passenger secured in a child  
11 safety seat.

12 SEC. 2. Section 38603 of the Vehicle Code is amended to read:

13 38603. (a) A person operating a recreational off-highway  
14 vehicle shall not allow a passenger to occupy a separate seat  
15 location not designed and provided by the manufacturer for a  
16 passenger.

17 ~~(b) This section shall become operative on July 1, 2013.~~

18 (b) This section shall not apply to any vehicle manufactured  
19 prior to January 1, 2014.

**Introduced by Senator Walters**February 12, 2013

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An act to amend Sections 38601 and 38603 of, and to repeal Section 38604 of, the Vehicle Code, relating to recreational off-highway vehicles.

## LEGISLATIVE COUNSEL'S DIGEST

SB 234, as introduced, 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. Existing law prohibits a person from allowing a passenger in a recreational off-highway vehicle unless the passenger is wearing a safety helmet.

This bill would make this prohibition inapplicable to a child who is secured in an appropriate child passenger restraint system meeting specified requirements.

(2) 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.

(3) 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 repeal these provisions.

Vote: majority. 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 38601 of the Vehicle Code is amended  
2 to read:

3 38601. (a) A person shall not operate, or allow a passenger  
4 in, a recreational off-highway vehicle unless the person and the  
5 passenger are wearing safety helmets meeting the requirements  
6 established for motorcycles and motorized bicycles pursuant to  
7 Section 27802.

8 (b) *Subdivision (a) does not apply to a child who is secured in*  
9 *an appropriate child passenger restraint system meeting the*  
10 *requirements of Article 3.3 (commencing with Section 27360) of*  
11 *Chapter 5 of Division 12.*

12 SEC. 2. Section 38603 of the Vehicle Code is amended to read:

13 38603. (a) A person operating a recreational off-highway  
14 vehicle *with a model year of 2014 or later* shall not allow a  
15 passenger to occupy a separate seat location not designed and  
16 provided by the manufacturer for a passenger.

17 ~~(b) This section shall become operative on July 1, 2013.~~

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

24 SEC. 3. Section 38604 of the Vehicle Code is repealed.

25 ~~38604. A person operating a recreational off-highway vehicle~~  
26 ~~shall not ride with a passenger, unless the passenger, while seated~~  
27 ~~upright with his or her back against the seatback, can grasp the~~  
28 ~~occupant handhold with the seatbelt and shoulder belt or safety~~  
29 ~~harness properly fastened.~~

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**Introduced by Senator Fuller**

February 19, 2013

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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.

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**ASSEMBLY BILL**

**No. 150**

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**Introduced by Assembly Member Olsen**  
**(Coauthors: Assembly Members Achadjian, Chávez, and Gorell)**  
(Coauthor: Senator Cannella)

January 18, 2013

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

LEGISLATIVE COUNSEL'S DIGEST

AB 150, as introduced, 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, such as proof of a disability or of being held captive as a prisoner of war, to be issued a pass entitling the bearer to use all facilities, including boat launching facilities, in units of the state park system.

This bill would require any veteran of such a war who was honorably discharged, or a current active duty soldier for the United States Armed Forces, upon application, to be issued a pass entitling the bearer of the pass to the use of any unit of the state park system on Memorial Day and Veterans Day if certain conditions are met, including that proper proof is supplied. If the veteran or active duty soldier enters the park in a vehicle, the bill would require all occupants in the vehicle to have their entrance fee waived.

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. (a) Notwithstanding Section 5011.5, a veteran of a
- 4 war in which the United States has been, or may be, engaged who
- 5 was honorably discharged from service, or a current active duty
- 6 soldier for the United States Armed Forces, upon application, shall
- 7 be issued a pass entitling the bearer to the use of any unit of the
- 8 state park system on Memorial Day and Veterans Day if both of
- 9 the following conditions are met:
- 10 (1) The veteran of war can provide proof of honorable discharge
- 11 or the active duty soldier can provide current military identification.
- 12 (2) The veteran of war or the active duty soldier resides in
- 13 California.
- 14 (b) If the bearer of the pass issued pursuant to subdivision (a)
- 15 enters the state park in a vehicle, all occupants of the vehicle shall
- 16 have their entrance fee waived.

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**Introduced by Senator DeSaulnier**

January 31, 2013

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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.~~

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**ASSEMBLY BILL**

**No. 315**

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**Introduced by Committee on Veterans Affairs**

February 12, 2013

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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**

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**Introduced by Assembly Member Hueso**

February 20, 2013

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An act to amend Sections 541.5 and 5080.42 of the Public Resources Code, relating to state parks.

LEGISLATIVE COUNSEL'S DIGEST

AB 594, as introduced, Hueso. State parks: operating agreements.

Existing law prohibits the Department of Parks and Recreation from closing or proposing to close a state park in the 2012–2013 or 2013–2014 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.

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 541.5 of the Public Resources Code is  
2 amended to read:

3 541.5. (a) The department shall not close, or propose to close,  
4 a state park in the 2012–13 or 2013–14 fiscal year. The commission  
5 and the department shall recommend all necessary steps to establish  
6 a sustainable funding strategy for the department to the Legislature  
7 on or before January 1, 2015.

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

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

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

20 (3) Up to five hundred thousand dollars (\$500,000) shall be  
21 available for the department to pay for ongoing audits and  
22 investigations as directed by the Joint Legislative Audit Committee,  
23 the office of the Attorney General, the Department of Finance, or  
24 other state agency.

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

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

35 (e) *The prohibition to close, or propose to close, a state park*  
36 *in the 2012–13 or 2013–14 fiscal year, pursuant to paragraph (a),*  
37 *does not limit or affect the department's authority to enter into an*  
38 *operating agreement, pursuant to Section 5080.42, during the*

1 2012–13 or 2013–14 fiscal year, for purposes of the operation of  
2 the entirety of a state park during the 2012–13 or 2013–14 fiscal  
3 year.

4 SEC. 2. Section 5080.42 of the Public Resources Code is  
5 amended to read:

6 5080.42. (a) Notwithstanding any other provision of this  
7 article, the department may enter into an operating agreement with  
8 a qualified nonprofit organization for the development,  
9 improvement, restoration, care, maintenance, administration, or  
10 operation of a unit or units, or portion of a unit, of the state park  
11 system, as ~~identified~~ *agreed to* by the director. If the department  
12 enters into an operating agreement that involves the operation of  
13 the entirety of a park unit, that agreement may be entered into  
14 pursuant to this section only to the extent that the agreement would  
15 enable the department to avoid closure of a unit or units of the  
16 state park system that may otherwise be subject to closure. *The*  
17 *prohibition on park closures, pursuant to subdivision (a) of Section*  
18 *541.5, does not limit the department's authority to enter into an*  
19 *operating agreement pursuant to this section, as provided in*  
20 *subdivision (e) of Section 541.5.* The department may only enter  
21 into an operating agreement that involves the operation of the  
22 entirety of a park unit for no more than 20 park units. An operating  
23 agreement with a qualified nonprofit organization shall include,  
24 but shall not be limited to, the following conditions:

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

28 (2) The nonprofit organization shall annually submit a written  
29 report to the department regarding its operating activities during  
30 the prior year and shall make copies of the report available to the  
31 public upon request. The report shall be available on the Internet  
32 Web sites of both the department and the nonprofit organization.  
33 The report shall include a full accounting of all revenues and  
34 expenditures for each unit of the state park system that the  
35 nonprofit organization operates pursuant to an operating agreement.

36 (3) (A) Except as provided in subparagraph (B), all revenues  
37 that the qualified nonprofit organization receives from a unit shall  
38 be expended only for the care, maintenance, operation,  
39 administration, improvement, or development of the unit. The  
40 qualified nonprofit organization may additionally contribute in-kind

1 services and funds raised from outside entities for the care,  
2 maintenance, operation, administration, improvement, or  
3 development of the unit.

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

14 (4) No General Fund moneys shall be provided to a nonprofit  
15 organization to subsidize the operation or maintenance of a park  
16 unit. This paragraph applies to state parks, the full operation of  
17 which are turned over to a nonprofit organization, but does not  
18 apply to or preclude the department from entering into agreements  
19 with nonprofit organizations to operate a portion of a state park  
20 unit, or from entering into comanagement agreements with  
21 nonprofit organizations that involve the sharing of operational and  
22 financial responsibilities for the park unit and that have the effect  
23 of reducing state costs. This paragraph does not apply to park  
24 entrance fees, concession revenues, or any other revenues generated  
25 within a park operated by a nonprofit organization pursuant to this  
26 section.

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

30 (c) An operating agreement entered into pursuant to subdivision  
31 (a) shall specify the duties that the nonprofit organization shall be  
32 responsible for carrying out relative to management and protection  
33 of natural, historical, and cultural resources, and shall identify  
34 those management duties that shall continue to be conducted by  
35 the department, so that all core operations of the park are  
36 delineated. Scientific, architectural, and engineering functions that  
37 require special expertise or professional training shall only be  
38 conducted by or under the supervision of qualified persons with  
39 applicable expertise or training and subject to oversight by the  
40 department.

1 (d) This section does not supersede the requirements of Section  
2 5019.53 regarding the protection of natural, scenic, cultural, and  
3 ecological values.

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

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

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

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

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

28 (3) An organization that is in compliance with the Supervision  
29 of Trustees and Fundraisers for Charitable Purposes Act, Article  
30 7 (commencing with Section 12580) of Chapter 6 of Part 2 of  
31 Division 3 of Title 2 of the Government Code.

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

1 to the state from operating agreements entered into pursuant to  
2 this section.

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

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

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**ASSEMBLY BILL**

**No. 757**

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**Introduced by Assembly Member Roger Hernández**

February 21, 2013

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

LEGISLATIVE COUNSEL'S DIGEST

AB 757, as introduced, Roger Hernández. Department of Parks and Recreation: regulations.

Existing law provides 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 adopt regulations by July 31, 2014, that would address specified issues regarding the approval and tracking of employees working in out-of-class assignments as identified in an audit by the Controller, and report to the Legislature.

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 11016.7 is added to the Government  
2 Code, to read:  
3 11016.7. (a) (1) The Department of Parks and Recreation  
4 shall, by July 1, 2014, adopt regulations implementing, to the  
5 extent practicable, policy recommendations in subdivision (b) as

1 emergency regulations in accordance with the Administrative  
2 Procedure Act (Chapter 3.5 (commencing with Section 11340) of  
3 Part 1 of Division 3 of Title 2 of the Government Code). For the  
4 purposes of the Administrative Procedure Act, the adoption of the  
5 regulations shall be deemed an emergency and necessary for the  
6 immediate preservation of the public peace, health and safety, or  
7 general welfare. Notwithstanding Chapter 3.5 (commencing with  
8 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
9 Code, these emergency regulations shall not be subject to the  
10 review and approval of the Office of Administrative Law.

11 (2) Notwithstanding subdivision (h) of Section 11346.1 and  
12 Section 11349.6 of the Government Code, the department shall  
13 transmit these regulations directly to the Secretary of State for  
14 filing. The regulations shall become effective immediately upon  
15 filing by the Secretary of State.

16 (3) Except as otherwise provided for by Section 10554, the  
17 Office of Administrative Law shall provide for the printing and  
18 publication of these regulations in the California Code of  
19 Regulations.

20 (b) The Controller listed the following policy suggestions  
21 regarding compensation for employees working in out-of-class  
22 assignments in its audit of the Department of Parks and Recreation  
23 dated December 18, 2012:

24 (1) All of the out-of-class assignments should be forwarded to  
25 the Classification and Pay Unit of the department for approval.  
26 The Transactions Unit of the department should ensure that all of  
27 the proper approvals are obtained before entering assignments into  
28 the payroll system. Approvals should occur before the assignment  
29 start date.

30 (2) The Classification and Pay Unit of the department should  
31 review bargaining unit contracts before approval of the out-of-class  
32 assignment to ensure that compensation is not paid beyond the end  
33 of an assignment period or that compensation does not exceed 120  
34 days within 12 consecutive months or 365 days, or both, depending  
35 on the employee's classification.

36 (3) The justification documentation or approval sheet, or both,  
37 should include language stating that approval for managers to  
38 receive out-of-class assignments occurs only after the manager  
39 already has worked out of class for 90 days.

1 (4) The Transactions Unit of the department should provide  
2 training to staff to ensure that they are aware that out-of-class pay  
3 should be adjusted for employees on nonindustrial disability  
4 insurance.

5 (5) The Transactions Unit managers or supervisors of the  
6 department should provide tools and training to staff to ensure that  
7 payment calculations are calculated correctly. The calculation  
8 should be adequately documented using a state form STD 671 and  
9 a legible calculation sheet.

10 (6) The department's Internal Audit Unit should conduct regular  
11 reviews of out-of-class assignments to determine whether the  
12 assignments are in accordance with state law, bargaining unit  
13 agreements, and department policies.

14 (7) The Department of Parks and Recreation should seek  
15 reimbursement from employees who received out-of-class  
16 payments to which they were not lawfully entitled.

17 (c) (1) The Department of Parks and Recreation shall report on  
18 the regulations adopted pursuant to this section to the Legislature  
19 on or before July 31, 2014.

20 (2) The report shall be submitted in compliance with Section  
21 9795.

22 (d) This section shall remain in effect only until December 31,  
23 2014, and as of that date is repealed, unless a later enacted statute,  
24 that is enacted before December 31, 2014, deletes or extends that  
25 date.

**ASSEMBLY BILL**

**No. 988**

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**Introduced by Assembly Member Jones**

February 22, 2013

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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 introduced, 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, ~~or~~ 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,  
27 *recreational off-highway vehicles*, or trailers subject to  
28 identification under this code, that are not intended for use on the  
29 highways.

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

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

1 vehicle of a type used exclusively in a contest of speed or in a  
2 competitive trial of speed which is not intended for use on the  
3 highways.

4 (i) A person who is a lessor.

5 (j) A person who is a renter.

6 (k) A salvage pool.

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

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

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

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

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

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

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

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

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

38 (A) The nonselling institution or organization meets the  
39 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 ~~or~~, all-terrain vehicles,  
39 *or 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, ~~or~~ *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 ~~or~~, 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, ~~and~~  
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 shall be in the amount of ten  
 30 thousand dollars (\$10,000). Before the license is renewed by the  
 31 department, the dealer, other than a dealer who deals exclusively  
 32 in motorcycles~~or~~, all-terrain vehicles, *or recreational off-highway*  
 33 *vehicles*, shall procure and file a bond in the amount of fifty  
 34 thousand dollars (\$50,000). A remanufacturer bond shall be in the  
 35 amount of fifty thousand dollars (\$50,000).

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

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

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

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

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

15 11723. The board may require that fees shall be paid to the  
 16 department for the issuance or renewal of a license to do business  
 17 as a new motor vehicle dealer, dealer branch, manufacturer,  
 18 manufacturer branch, distributor, distributor branch, or  
 19 representative. The fees shall be to reimburse the department for  
 20 costs incurred in licensing those dealers, manufacturers,  
 21 distributors, branches, and representatives and for related  
 22 administrative costs incurred on behalf of the board. The board  
 23 may also require that an additional fee be paid to the department  
 24 when the licensee has failed to pay the fee authorized by Section  
 25 3016 prior to the expiration of its occupational license and special  
 26 plates and the licensee utilizes the 30-day late renewal period  
 27 authorized by subdivision (c) of Section 11717.

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