California

# Off-Highway Motor Vehicle

# Laws

# 2014

for the

**OFF-HIGHWAY MOTOR VEHICLE RECREATION PROGRAM**

Through the 2014 Legislative Session

November 2014

California State Parks, Off-Highway Motor Vehicle Recreation Division

# California Off-Highway Motor Vehicle Laws
# October 2014

## Through the 2014 Legislative Session

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# CALIFORNIA
# PUBLIC RESOURCES CODE

## DIVISION 5. Parks and Monuments

## CHAPTER 1. State Parks and Monuments

## ARTICLE 1. State Park System

### § 5001. State Park System

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

### § 5001.1. "Department" and "Director"

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

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

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

### § 5001.6. State seashore

(a) Notwithstanding Section 5001.95, units of the state park system may be located within, and be a part of, a state seashore. However, the unit shall be managed in accordance with its classification as provided in Section 5019.62.

(b) The following state seashores are hereby established consisting of appropriate coastal lands described in this subdivision together with any other lands that may, from time to time, be acquired by the state as an addition to these state seashores:

…

(7) San Luis Obispo State Seashore, consisting of lands extending from Cayucos to Lion's Head and including Cayucos State Beach, Morro Strand State Beach, Atascadero State Beach, Morro Bay State Park, Montana de Oro State Park, Avila State Beach, Pismo State Beach, Pismo Dunes State Vehicular Recreation Area and Point Sal State Beach, all within San Luis Obispo and Santa Barbara Counties.

## § 5001.65. Taking of Mineral Specimens for Recreational Purposes

Commercial exploitation of resources in units of the state park system is prohibited. However, slant or directional drilling for oil or gas with the intent of extracting deposits underlying the Tule Elk State Reserve in Kern County is permissible in accordance with Section 6854. Commercial fishing is permissible, unless otherwise restricted, in state marine conservation areas, state marine cultural preservation areas, and state marine recreational management areas.

Qualified institutions and individuals shall be encouraged to conduct nondestructive forms of scientific investigation within state park system units, upon receiving prior approval of the director.

The taking of mineral specimens for recreational purposes from state beaches, state recreation areas, or state vehicular recreation areas is permitted upon receiving prior approval of the director.

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

(a) The use of motor vehicles in units of the state park system is subject to the following limitations:

  (1) In state wildernesses, natural preserves, and cultural preserves, use is prohibited.

  (2) In state parks, state reserves, state beaches, wayside campgrounds, and historical units, use is confined to paved areas and other areas specifically designated and maintained for normal ingress, egress, and parking.

  (3) In state recreation areas, use is confined to specifically designated and maintained roads and trails.

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

## § 5001.96. Attendance limits

Attendance at state park system units shall be held within limits established by carrying capacity determined in accordance with Section 5019.5.

## § 5002.1. State Park System Unit Inventory

Prior to the classification or reclassification of a unit of the state park system into any of the categories specified in Article 1.7 (commencing with Section 5019.50) of this chapter, the department shall prepare an inventory of the unit's scenic, natural, and cultural features,

including, but not limited to, ecological, archaeological, historical, and geological features. The inventory shall be submitted by the department to the State Park and Recreation Commission for its consideration when classifying or reclassifying a unit.

## § 5002.2. General Plan Preparation or Revision

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

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

(b) The resource element of the general plan shall evaluate the unit as a constituent of an ecological region and as a distinct ecological entity, based upon historical and ecological research of plant-animal and soil-geological relationships and shall contain a declaration of purpose, setting forth specific long-range management objectives for the unit consistent with the unit's classification pursuant to Article 1.7 (commencing with Section 5019.50), and a declaration of resource management policy, setting forth the precise actions and limitations required for the achievement of the objectives established in the declaration of purpose.

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

(d) Any general plan approved prior to July 1, 1972, may be used as the basis for development if the director finds that there has been no significant change in the resources of the unit since approval of the plan and that the plan is compatible with current policies governing development of the unit and the classification of the unit.

(e) Consistent with good planning and sound resource management, the department shall, in discharging its responsibilities under this section, attempt to make units of the state park system accessible and usable by the general public at the earliest opportunity.

(f) The department may prepare a general plan which includes more than one unit of the state park system for units which are in close proximity to one another and which have similar resources and recreational opportunities if that action will facilitate the protection of public resources and public access to units of the state park system.

## § 5002.3. Public Hearing Required

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

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

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

## § 5002.4. Legislative Requests

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

## § 5003.02.1. Pismo Beach State Park; Grover Beach Lodge

(a) The Legislature hereby finds and declares that the department and the City of Grover Beach, in a joint project, are in the process of entering into an operating agreement for the purpose of negotiating a concession contract for the development of extensive new facilities at Pismo Beach State Park, and that the standard, 20-year term is insufficient to enable the concessionaire to amortize the type and scale of improvements that the department and the city will require the concessionaire to make.

(b) The Legislature further finds and declares that approval of commercial development at Pismo Beach State Park does not provide precedent for commercial development in other units of the state park system and is a one-time exception to Sections 5019.53 and 5080.03 by reason of the following circumstances:

(1) The general plan for the state park provides for the project.

(2) The site is located on the perimeter of the state park and adjacent to State Route 1.

(3) The development will not impact the resources or the public's use of the state park.

(4) The land proposed to be developed is suitable for commercial development.

(c) Pursuant to subdivision (a) of Section 5080.18, the term of the concession contract entered into by the department and the City of Grover Beach with a concessionaire for the development of new facilities at Pismo Beach State Park may be for a period not to exceed 50 years if the contract also provides that the rent be reviewed and adjusted at least every five years to reflect market rates and economic conditions prevailing in the area in which the concession is located.

(d) No contract subject to this section may be advertised for bid, negotiated, renegotiated, or amended in any material respect unless the Legislature reviews and approves the proposed contract in the annual Budget Act.

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

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

proceeds shall be deposited in the State Parks and Recreation Fund and shall be available for appropriation for the further extension, improvement, or development of the state park system. If the real property was originally acquired with moneys appropriated from the General Fund, the net proceeds shall be deposited in the unappropriated surplus of the General Fund.

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

### § 5003.4. Parking Facilities for Recreational Vehicles and Installation of Camping Cabins

There shall be provided in each state park in which camping is permitted those parking facilities for recreational vehicles, as defined by Section 18010 of the Health and Safety Code, that can be accommodated within the park consistent with the objective of providing camping facilities for the public in these parks. In addition, the Department of Parks and Recreation may install or permit the installation of camping cabins, as defined by Section 18862.5 of the Health and Safety Code, within the units of the state park system if installation of camping cabins is consistent with the general plan of the unit.

### § 5006. Acquisition of Real Property

(a) The department, with the consent of the Department of Finance, and subject to Section 15853 of the Government Code, may acquire title to or any interest in real property, including personal property incidental to the purchase of real property and options to purchase property, which the department deems necessary or proper for the extension, improvement, or development of the state park system. All real and personal property acquired by the department for the state park system shall be under the jurisdiction of the department immediately upon transfer of title to the state.

(b) (1) The department, pursuant to paragraph (1) of subdivision (d) of Section 15853 of the Government Code, may appraise and select real property for the purpose of acquiring an option to purchase the real property for the state park system. The department may utilize the services of the Real Estate Services Division of the Department of General Services or may contract with independent appraisers appropriately certified by the Office of Real Estate Appraisers, to assist in appraising property.

(2) The department, pursuant to paragraph (1) of subdivision (d) of Section 15853 of the Government Code, may appraise and select real property for potential acquisition of, and addition to, the state park system. The department may utilize the services of the Real Estate Services Division of the Department of General Services or may contract with independent appraisers appropriately certified by the Office of Real Estate Appraisers, to assist in appraising the property. Prior to appraising the property, the Department of Parks and

Recreation shall notify the owners of the real property that the department is considering the real property for acquisition, and may have it appraised. The department shall determine the form and manner of giving the notice.

(3) The department, pursuant to paragraph (1) of subdivision (d) of Section 15853 of the Government Code, may select real property it has appraised and submit purchase offers and negotiate a purchase agreement with the owner or owners of the property. The department shall be responsible for implementing and processing the purchase agreement and conveyance of title to the state. The department may utilize the services of the Real Estate Services Division of the Department of General Services, or may contract with other state agencies with real estate and right-of-way acquisition programs, to assist in negotiating purchase agreements and conveyance of title.

(c) Upon acquisition of real property for the state park system, the department shall be responsible for providing relocation assistance to displaced persons as provided under Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code. The department may utilize the services of the Real Estate Services Division of the Department of General Services, or may contract with other state agencies or private consultants with real estate and right-of-way acquisition programs, to assist in relocation planning and implementation.

(d) (1) Requests for funding to administer the department's acquisition program shall be submitted by the department for inclusion in the Governor's Budget for each fiscal year.

(2) Requests for funding to acquire options to purchase real and personal property for the state park system shall be submitted by the department for inclusion in the Governor's Budget for each fiscal year based upon its estimate of the amount needed for that purpose. If an option to purchase real property for the state park system has been acquired, the funding proposed by the department shall be the appraised value of the property less the sum expended for the purchase of the option. The expenditure of the moneys shall be subject to the limitation specified in paragraph (1) of subdivision (d) of Section 15853 of the Government Code unless otherwise provided by the Legislature.

(3) Requests for funding to acquire real property or any interest in real property shall be submitted by the department for inclusion in the Governor's Budget for each fiscal year. The projects shall have been selected and appraised by the department pursuant to subdivision (b) prior to inclusion. The Governor's Budget shall contain a separate description of each project, or acquisition program and its appraised value, or funding allocation.

(e) The requirements imposed by subdivision (d) are in addition to any other provisions of law requiring the inclusion of state park system acquisition projects in the Governor's Budget.

(f) The department shall not enter into any purchase agreements for the acquisition of real property if the consideration to be paid by the department is in excess of five hundred thousand dollars ($500,000), unless Section 5006.1 has been complied with.

(g) Notwithstanding any other provision of law, all appraisals conducted by the department pursuant to this section shall be reviewed and approved by the Department of General Services or, at the discretion of the Department of General Services, a competent professional appraiser approved by the Department of General Services. Real property shall be appraised and appraisal review completed before commencement of purchasing negotiations. All contracts related to the acquisition of real property shall be reviewed and approved by the Department of General Services pursuant to Section 11005 of the Government Code.

## § 5006.1. Acquisition of Real Property in Excess of $5 Million

(a) (1) Prior to submitting a proposal pursuant to subdivision (f) of Section 5006, for an appropriation for the acquisition of real property in excess of five million dollars ($5,000,000) in value for any state park system project, the department shall hold a public hearing within the county in which the proposed project is located at which interested members of the public may comment on the proposed project. Notice of the hearing shall be published at least twice in a newspaper of general circulation within that county.

(2) (A) The department shall provide written notice of its intent to acquire the real property to the city or county, or both, having jurisdiction over the property, to the members of the Legislature who are the chair and vice chair of the joint legislative budget committee, the chair of the budget subcommittee in each house having jurisdiction over resources, the chair in each house of the appropriate legislative policy committee, and the legislators within whose district the property proposed for acquisition is located, as early as possible in the acquisition process, but not less than 90 days from the date of acquisition. Within 30 days of receiving written notice of the proposed acquisition, a member of the city council or board of supervisors of the respective city or county, or a Member of the Legislature who has been notified pursuant to this subparagraph, may request that the department hold a public hearing regarding the acquisition of the property, if the acquisition is between five hundred thousand dollars ($500,000) and five million dollars ($5,000,000).

(B) The written notice of intent shall describe any potential impact that the acquisition may have on the department's efforts to provide park and recreational opportunities.

(b) With respect to real property in excess of five million dollars ($5,000,000) that is not proposed to be acquired pursuant to subdivision (f) of Section 5006, the department

shall hold a public hearing within the county in which the real property is located, at which interested members of the public may comment on the proposed acquisition. Notice of the hearing shall be published at least twice in a newspaper of general circulation within the county. The department shall provide written notice of its intent to acquire the real property to the city or county, or both, having jurisdiction over the property, as early as possible in the acquisition process.

(c) This section does not apply to any real property to be acquired by grant, gift, devise, or bequest.

### § 5006.4. Hollister; Acquisition for OHV Recreation

(a) The department may acquire, on behalf of the state, a fee or lesser interest in real and personal property located near Hollister in San Benito County for the state park system. If the property is leased, the lease shall be for such term and for such consideration as is mutually agreed upon by and between the director and the lessor, and with the rental to be paid by the department. Any interest acquired pursuant to this section shall be subject to the provisions of the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code). With respect to lands subject to the grantor's reservation of oil and gas and mineral rights, the proviso contained in Section 5019 shall not apply.

(b) The department shall carry out a program in that unit of development, maintenance, administration, and conservation of trails and areas for the recreational use of off-highway vehicles and for other related state park system purposes. Areas for the recreational use of off-highway vehicles shall be administered pursuant to Chapter 1.25 (commencing with Section 5090.01).

Any fees, rentals, or other returns collected by the department in its administration of the unit shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Fund.

### § 5006.41. Oroville; Acquisition for OHV Recreation

The department may enter into agreements with the Department of Water Resources and the Department of Fish and Game to plan, develop, and administer real and personal property located in the vicinity of Oroville. The department shall carry out a program in that unit of development, maintenance, administration, and conservation of trails and areas for the recreational use of off-highway vehicles. Areas for the recreational use of off-highway vehicles shall be administered pursuant to Chapter 1.25 (commencing with Section 5090.01).

Any fees, rentals, or other returns collected by the department in its administration of the unit shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Fund.

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

(a) Notwithstanding any other provision of law, the Director of General Services may acquire, on behalf of the state, a fee or lesser interest in such real and personal property located in the vicinity of Ocotillo Wells in San Diego County as is designated in writing to the Director of General Services by the Director of Parks and Recreation. If the property is leased, the lease shall be for such term and for such consideration as is mutually agreed upon by and between the Director of General Services and the lessor, and with the rental to be paid by the Department of Parks and Recreation.

(b) Prior to making any acquisition:

(1) The Director of Parks and Recreation shall recommend to the State Park and Recreation Commission his designation of lands presently owned by the department to be included in the vehicular recreation area provided in subdivision (d), and no acquisition may be made unless and until the commission has concurred in that designation.

(2) The director shall conduct at least one public hearing in San Diego County regarding the designation of lands presently owned by the department to be included in the vehicular recreation area. The director shall consider and be guided by testimony presented at the hearing.

(c) Any interest acquired pursuant to this section shall be subject to the provisions of the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code). The proviso in Section 5019[1] shall not apply to any property acquired pursuant to this section that is subject to a reservation of oil and mineral rights if the Director of Parks and Recreation finds that the proposed prospecting or extraction of oil and minerals will not unreasonably interfere with the use of the property or adjoining property for recreation and if the grantor or lessor of the surface of the property, if other than the state or the holder of such a reservation, consents to the proposed prospecting or extraction.

(d) Upon acquisition of the interest, the Director of General Services shall forthwith transfer the interest to the jurisdiction of the department, which shall administer the property as a unit of the state park system. The department shall carry out a program in that unit of development, maintenance, administration, and conservation of trails and areas for the recreational use of off-highway vehicles and for other related state park system purposes. Areas for the recreational use of off-highway vehicles shall be administered pursuant to Chapter 1.25 (commencing with Section 5090.01).

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

(e) Any fees, rentals, or other returns collected by the department in its administration of the unit shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Fund.

(f) The Director of Parks and Recreation shall review, and report annually to the State Park and Recreation Commission regarding, the development, maintenance, administration, and public usage of the vehicular recreation area and its success, effects on the environment, and appropriateness as a unit of the state park system.

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

(a) Notwithstanding any other provision of law, the Director of General Services may acquire, on behalf of the state, a fee or lesser right or interest in such real and personal property in the Counties of Los Angeles and Ventura located in the vicinity of Gorman and commonly known as Hungry Valley as is designated in writing by the Director of Parks and Recreation to the Director of General Services. If the property is leased, the lease shall be for such term and for such consideration as is mutually agreed upon by and between the Director of General Services and the lessor, and consented to by the Director of Parks and Recreation, and with rent to be paid by the Department of Parks and Recreation.

(b) Any interest in property acquired pursuant to this section shall be subject to the provisions of the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code). The proviso in Section 5019 shall not apply to any property acquired pursuant to this section that is subject to a reservation of oil and mineral rights if the Director of Parks and Recreation finds that the proposed prospecting or extraction of oil and minerals will not unreasonably interfere with the use of the property or adjoining property for recreation and if the grantor or lessor of the surface of the property, if other than the state or the holder of such a reservation, consents to the proposed prospecting or extraction.

(c) Upon acquisition of the property, the Director of General Services shall transfer jurisdiction over the property to the Department of Parks and Recreation, which shall administer the property as a unit of the state park system. The 51st District Agricultural Association may propose a name for the unit. The department shall carry out a program in that unit of planning, development, construction, maintenance, administration, and conservation of trails and areas for the recreational use of off-highway vehicles and for other related purposes of the state park system. Areas for the recreational use of off-highway vehicles shall be administered pursuant to Chapter 1.25 (commencing with Section 5090.01). The 51st District Agricultural Association may use the land and facilities within the unit for a fair oriented to off-highway vehicles for not more than 10 days each year if the Director of Parks and Recreation approves that use. The director may impose such terms and conditions upon such use as the director deems necessary and proper. The dates of that use shall

be selected each year prior to January 1 and shall be subject to the approval of the Director of Parks and Recreation.

(d) If the Director of General Services determines that it is necessary, in order to purchase the property, to offer to the person from whom it is being purchased an option to lease back all or part of the property, the director may make such an offer if the Director of Parks and Recreation determines at the time of the purchase that the property is not then needed for the purposes of the state park system and will not be needed for the term of the lease thus offered. At any time after the option expires, the Director of General Services may offer, under competitive bidding procedures, all or part of the property for lease if the Director of Parks and Recreation determines at that time it is not then needed for the purposes of the state park system and will not be needed for the term of the lease to be offered. Any lease entered into pursuant to this section shall be subject to Section 15862 of the Government Code. Notwithstanding the provisions of Section 15863 of the Government Code, all rent accruing from any such lease after jurisdiction over the property is transferred to the Department of Parks and Recreation pursuant to subdivision (c) shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Fund and shall be available for expenditure only for the purposes specified in subdivision (b) of Section 5090.61.

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

**§ 5006.48. Carnegie; Acquisition; Administration**

(a) Notwithstanding any other provision of law, the Director of General Services may acquire, on behalf of the state, a fee or lesser right or interest in real and personal property in the Counties of Alameda and San Joaquin located approximately 10 miles east of the City of Livermore and commonly known as the Carnegie Cycle Park. If the property is leased, the lease shall be for the term and for the consideration that is mutually agreed upon by and between the Director of General Services and the lessor, and consented to by the Director of Parks and Recreation, and with rent to be paid by the Department of Parks and Recreation.

(b) Any interest in property acquired pursuant to this section shall be subject to the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code).

(c) Upon acquisition of the property, the Director of General Services shall transfer jurisdiction over the property to the Department of Parks and Recreation, which shall administer the property as a unit of the state park system. The Department of Parks and Recreation shall carry out a program in that unit of planning, development, construction, maintenance, administration, and conservation of trails and areas for the

recreational use of off-highway vehicles and for other related purposes of the state park system. Areas for the recreational use of off-highway vehicles shall be administered pursuant to Chapter 1.25 (commencing with Section 5090.01).

(d) The Director of General Services may offer, under competitive bidding procedures, all or part of the property for lease if the Director of Parks and Recreation determines at that time it is not then needed for the purposes of the state park system and will not be needed for the term of the lease to be offered. Any lease entered into pursuant to this section shall be subject to Section 15862 of the Government Code. Notwithstanding Section 15863 of the Government Code, all rent accruing from that lease after jurisdiction over the property is transferred to the Department of Parks and Recreation pursuant to subdivision (c) shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Fund and shall be available for expenditure only for the purposes specified in subdivision (b) of Section 5090.61.

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

**§ 5007. Park Closures**

(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 any 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.

### § 5008. Protect the State Park System and the SVRA and Trail System from Damage; Preserve Peace

(a) The department shall protect the state park system and the state vehicular recreation area and trail system from damage and preserve the peace therein.

(b) The director may designate any officer or employee of the department as a peace officer. The primary duties of the peace officer shall be the enforcement of this division, Sections 4442 and 4442.5, the rules and regulations of the department,

Chapter 5 (commencing with Section 650) of Division 3 of the Harbors and Navigation Code, the rules and regulations of the Department of Boating and Waterways, Chapter 2 (commencing with Section 9850) of Division 3.5 of the Vehicle Code, and Division 16.5 (commencing with Section 38000) of the Vehicle Code and to arrest persons for the commission of public offenses within the property under its jurisdiction. The authority and powers of the peace officer shall be limited to those conferred by law upon peace officers listed in Section 830.2 of the Penal Code.

(c) The department shall protect property included in the California recreational trail system and the property included in the recreational trail system under Section 6 of Chapter 1234 of the Statutes of 1980 from damage and preserve the peace therein. The primary duties of any officer or employee designated a peace officer under this section shall include enforcement of the rules and regulations established by the department under subdivision (l) of Section 6 of Chapter 1234 of the Statutes of 1980 and the arrest of persons for the commission of public offenses within the property included in the recreational trail system under Section 6 of Chapter 1234 of the Statutes of 1980.

(d) Any person who violates the rules and regulations established by the department is guilty of a misdemeanor and upon conviction shall be punished by imprisonment in the county jail not exceeding 90 days, or by a fine not exceeding one thousand dollars ($1,000), or by both that fine and imprisonment, except that at the time a particular action is commenced, the judge may, considering the recommendation of the prosecuting attorney, reduce the charged offense from a misdemeanor to an infraction. Any person convicted of the offense after such a reduction shall be punished by a fine of not less than ten dollars ($10) nor more than one thousand dollars ($1,000).

## § 5008.1. Bringing Animals to a State Park Unit

(a) When it is determined by the director to be in the public interest, and subject to the fees, rules, and regulations of the department, visitors to units of the state park system may bring animals into those units.

(b) Any animal brought into a state park system unit pursuant to subdivision (a) shall be under the immediate control of the visitor or shall be confined, and under no circumstance shall the animal be permitted to do any of the following:

(1) Pose a threat to public safety and welfare.

(2) Create a public nuisance.

(3) Pose a threat to the natural or cultural resources of the unit or to the improvements at the unit.

(c) The department may require a person bringing an animal into a state park system unit pursuant to subdivision (a) to provide proof of appropriate immunizations and valid licenses.

(d) This section does not apply to dogs used to lawfully pursue game in season at units of the state park system where hunting is allowed.

### § 5008.2. Capture of Animals Not Confined or Under Immediate Control of Person

(a) Peace officers and other designated employees of the department may capture any animal (1) which is not confined or under the immediate control of a person visiting the unit, (2) which poses a threat to public safety and welfare, to the natural or cultural resources of the unit, or to the improvements at the unit, or (3) which is a public nuisance.

(b) Peace officers may dispatch any animal which poses an immediate or continuing threat (1) to public safety and welfare or (2) to wildlife at the unit.

(c) Owners of animals with identification that have been captured or dispatched pursuant to this section shall be notified within 72 hours after capture or dispatch.

(d) This section does not apply to dogs used to lawfully pursue game in season at units of the State Park System where hunting is permitted.

(e) The authority conferred by this section on peace officers or designated employees of the department may only be exercised on or about property owned, operated, controlled, or administered by the department.

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

(a) The department may collect fees, rents, and other returns for the use of any state park system area, the amounts to be determined by the department. The department may accept a credit card as a method of payment for fees collected through the department's reservation system. Any contract executed by the department with credit card issuers or draft purchasers shall be consistent with Section 6159 of the Government Code. Notwithstanding Title 1.3 (commencing with Section 1747) of Part 4 of Division 3 of the Civil Code, the department may impose a surcharge in an amount to cover the cost of providing the reservation service, including reimbursement for any fee or discount charged by the credit card issuer.

(b) All revenues received by the department during each fiscal year shall be paid into the State Treasury to the credit of the State Parks and Recreation Fund, which is hereby created.

(c) Notwithstanding subdivision (b), all revenues received by the department from the state vehicular recreation areas shall be paid into the State Treasury to the credit of the Off-Highway Vehicle Trust Fund, as required by Section 38225 of the Vehicle Code.

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

## § 5011.5. Veteran of a War Shall be Issued a State Park System Pass

(a) A veteran of a war in which the United States has been, or may be engaged, who is a resident of this state, upon presentation to the department of proof of disability, proof of being held captive as a prisoner of war, or proof of being a recipient of a Congressional Medal of Honor, and proof of an honorable discharge from service, upon application therefor, shall be issued a pass entitling the bearer to the use of all facilities, including boat launching facilities, in units of the state park system.

(b) As used in this section:

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

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

## § 5011.6. Reduced Fee or Free Day Use Pass at Any State Park Unit on Memorial Day and Veterans Day for Military Personnel

The department may offer a reduced fee or free day use of any unit of the state park that is operated by the state and accessible with a vehicle day use annual pass, as those parks are listed on the department's Internet Web site, to a veteran, as defined in Section 980 of the Military and Veterans Code, or active duty or reserve military personnel for the United States Armed Forces or the National Guard of any state, on Memorial Day and Veterans Day if the veteran can provide proof of current military identification, or proof of discharge under conditions other than dishonorable or bad conduct, or the active duty or reserve military personnel of the Armed Forces or the National Guard can provide current military identification.

## § 5016.2. Ocotillo Wells North; Freeman Property Acquisition; CEQA

(a) Notwithstanding any other law, the Department of Parks and Recreation may enter into an agreement for the acquisition of the "Freeman Property," as identified in subdivision (d). The acquisition of the "Freeman Property" pursuant to this authorization and identified in this map is exempt from the California Environmental Quality Act (CEQA) (Division 13 (commencing with Section 21000)).

(b) The exemption under subdivision (a) does not apply to any general plan that is required for the management of the "Freeman Property," or any portion thereof, pursuant to Section 5002.2, or to any subsequent project approved for the "Freeman Property," or any portion thereof.

(c) The acquisition of the "Freeman Property" by the department is subject to all of the following conditions:

(1) The boundary between the Anza-Borrego Desert State Park and the Ocotillo Wells State Vehicular Recreation Area shall be in substantial conformance to the dividing line among Sections 8, 9, 10,11, 19, and 20, of Township 10 South, Range 09 East, S.B.B.M., as identified on the map.

(2) Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 17, 18, 19, and 20, of Township 10 South, Range 09 East, S.B.B.M., as identified on the map above the dividing line, shall be annexed to the Anza-Borrego Desert State Park upon completion of transfer of title to the department.

(3) Sections 9, 10, 11, 14, 15, 16, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34, and 35, of Township 10 South, Range 09 East, S.B.B.M., as identified on the map below the dividing line, shall be annexed to the Ocotillo Wells State Vehicular Recreation Area upon completion of transfer of title to the department.

(d) The following map describes the "Freeman Property."

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**NOTICE OF INCOMPLETE TEXT**: The Freeman Property map appears in the hard-copy publication of the chaptered bill.

See Sec. 11 of Chapter 718, Statutes of 2010.

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### § 5019.5. Carrying Capacity Survey

Before any park or recreational area developmental plan is made, the department shall cause to be made a land carrying capacity survey of the proposed park or recreational area, including in such survey such factors as soil, moisture, and natural cover.

## CHAPTER 1.2. Operation and Management of State Park System Properties

## ARTICLE 1. Concessions

### § 5080.02. Concession Contracts; Board, Commission, Contract

As used in this article, the following terms shall have the following meanings:

(a) "Board" means the State Public Works Board.

(b) "Commission" means the State Park and Recreation Commission.

(c) "Contract" means a contract for the construction, maintenance, and operation of a concession.

### § 5080.03. Concession Contracts; Concessions

(a) The department may enter into contracts with natural persons, corporations, partnerships, and associations for the construction, maintenance, and operation of concessions within units of the state park system for the safety and convenience of the general public in the use and enjoyment of, and the enhancement of recreational and educational experiences at, units of the state park system.

(b) Concessions shall not be entered into solely for their revenue producing potential.

(c) With respect to any unit of the state park system for which a general development plan has been approved by the commission, any proposed concession at that unit shall be compatible with that plan.

### § 5080.05. Concession Contracts; Best Responsible Bidder

Except as provided in Section 5080.16, all contracts authorizing occupancy of any portion of the state park system for a period of more than two years shall be awarded to the best responsible bidder. “Best responsible bidder” means the bidder, as determined by specific standards established by the department, which, as determined by the department, will operate the concession (1) consistent with the contract, (2) in a manner fully compatible with, and complimentary to, the characteristics, features, and theme of

the unit in which the concession will be operated, and (3) in the best interests of the state and public.

### § 5080.06. Concession Contracts; Invitation to Bid

For any contract authorizing occupancy by the concessionaire for a period of more than two years of any portion of the state park system, the department shall prepare an invitation to bid, which shall include a summary of the terms and conditions of the concession sufficient to enable persons to bid solely on the basis of rates to be paid to the state. The invitation to bid shall specify the minimum acceptable rent, except in instances in which a minimum acceptable rent cannot be ascertained because of the novelty or uniqueness of the service or facility to be provided or in instances in which the department has determined that a better return to the state can be secured by not specifying a minimum acceptable rent. Bids shall be made only on the basis of the invitation to bid.

### § 5080.07. Concession Contracts; Public Notice to Bidders

(a) Notwithstanding the provisions of Sections 11080 and 11081 of the Government Code, public notice to bidders shall be given of all proposed contracts authorizing the occupancy of property in the state park system for a period of more than two years, as follows:

    (1) The department shall advertise the notice through appropriate public media to the extent that the department determines is sufficient to provide adequate coverage.

    (2) The department shall publish an advertisement for bid at least once a week for two consecutive weeks in a newspaper of general circulation in the county in which the concession is to operate and in a major daily newspaper in the closest metropolitan area.

    (3) If the director determines that, in view of the type of concession involved, the public interest would be best served by the solicitation of bids from out-of-state bidders, he or she shall give such additional notice as he or she finds is best suited to attract bids from out-of-state bidders.

(b) The published notice shall state where bid forms may be obtained, the time and place for the receiving and opening of sealed bids, and shall describe, in general terms, the concession to be operated.

### § 5080.08. Concession Contracts; Questionnaires and Financial Statements

(a) The department shall require from prospective bidders answers to questions contained in a standard form of questionnaire and financial statement, including a complete statement of the prospective bidder's financial ability and experience in maintaining and operating similar or related concessions or business activities. When completed, the questionnaire and financial statement shall be verified under oath by the bidder.

(b) The questionnaires and financial statements are confidential and are not open to public inspection. However, this subdivision shall not be construed to prevent reference thereto or use thereof in a civil action or a criminal prosecution by the state for a false statement contained therein.

### § 5080.09. Concession Contracts; Sealed Bids

All bids shall be presented under sealed cover.

### § 5080.10. Concession Contracts; Last Day to Submit Bids

Whether or not bids are opened exactly at the time fixed in the public notice for opening bids, a bid shall not be received after that time.

### § 5080.11. Concession Contracts; Withdrawal of Bids

Any bid may be withdrawn at any time prior to the time fixed in the public notice for the opening of bids, but only by written request of the withdrawal of the bid filed with the director. The request shall be signed by the bidder or by an authorized representative. The withdrawal of a bid does not prejudice the right of a bidder to file a new bid prior to the date and time set for the opening of bids.

This section does not authorize the withdrawal of any bid after the time fixed in the public notice for the opening of bids.

### § 5080.12. Concession Contracts; Opening Sealed Bids and Bid Award

On the day named in the public notice, the department shall publicly open the sealed bids. The department shall carefully study and analyze all bids and, on or after the 15th day after the bids are opened, may award the concession to the bidder then determined to be the best responsible bidder.

### § 5080.13. Concession Contracts; Execution of the Contract

If the successful bidder does not sign and deliver the contract within 30 days of receipt thereof and does not provide the state with a bond or other surety and evidence of insurance required thereunder, and on the time limit presented, the department may elect to treat that omission as a refusal to execute the contract. If the director deems it is for the best interests of the state, he or she may, on the refusal or failure of the successful bidder to execute the contract, award it to the second best responsible bidder. If the second best responsible bidder fails or refuses to execute the contract, the director may likewise award it to the third best responsible bidder.

### § 5080.14. Concession Contracts; Rejection of Bids

If the director deems that the acceptance of any bid is not for the best interests of the state, he or she may reject all bids.

### § 5080.15. Concession Contracts; No Changes to Bids Due to Mistakes

A bidder shall not be relieved of his or her bid and no change shall be made in his or her bid because of mistakes.

### § 5080.16. Concession Contracts; Negotiate or Renegotiate a Contract

If the director determines that it is for the best interests of the state, the director, upon giving notice to the State Park and Recreation Commission, may negotiate or renegotiate a contract, including terms and conditions, when one or more of the following conditions exist:

(a) The bid process as prescribed in this article has failed to produce a best responsible bidder.

(b) The negotiation or renegotiation would constitute an extension of an existing contract obtained through the process required by this article and the extended contract would provide for substantial and additional concession facilities, which would be constructed at the sole expense of the concessionaire and which are set forth in the general plan for the unit and are needed to accommodate existing or projected increased public usage.

(c) Lands in the state park system administered by the department and lands under the legal control of the prospective concessionaire are so situated that the concession is dependent upon the use of those public and private lands for the physical or economic success, or both, of the concession.

(d) Whenever a concession is desired for particular interpretive purposes in a unit of the state park system and the prospective concessionaire possesses special knowledge, experience, skills, or ability appropriate to the particular interpretive purposes.

(e) Whenever the concession has been severely and adversely impacted through no fault of the concessionaire by an unanticipated calamity, park closure, major construction, or other harmful event or action.

(f) Whenever the estimated administrative costs for the bid process exceed the projected annual net rental revenue to the state.

### § 5080.17. Concession Contracts; Contract Award

(a) Every contract awarded pursuant to the bidding requirements of this article, pursuant to the request for proposal process specified in Section 5080.23, or negotiated or renegotiated pursuant to Section 5080.16, shall be submitted to the Attorney General for approval for legal sufficiency and to the Director of General Services for approval pursuant to Section 11005.2 of the Government Code, the requirements of which are the only requirements applicable to the approval of contracts entered into pursuant to this article. The concession contract is not binding on the state until approved by the Attorney General and the Director of General Services.

(b) Notwithstanding Section 11005.2 of the Government Code and subdivision (a) of this section, the approval of a concession contract by the Director of General Services shall not be required unless the concession contract authorizes occupancy of a unit of the state park system for a period of more than one year.

### § 5080.18. Concession Contracts; Provisions

All concession contracts entered into pursuant to this article shall contain, but are not limited to, all of the following provisions:

(a) (1) The maximum term shall be 10 years, except that a term of more than 10 years may be provided if the director determines that the longer term is necessary to allow the concessionaire to amortize improvements made by the concessionaire, to facilitate the full utilization of a structure that is scheduled by the department for replacement or redevelopment, or to serve the best interests of the state. The term shall not exceed 20 years without specific authorization by statute.

(2) The maximum term shall be 50 years if the concession contract is for the construction, development, and operation of multiple-unit lodging facilities equipped with full amenities, including plumbing and electrical, that is anticipated to exceed an initial cost of one million five hundred thousand dollars ($1,500,000) in capital improvements in order to begin operation. The term for

a concession contract described in this paragraph shall not exceed 50 years without specific authorization by statute.

(3) Notwithstanding paragraph (1), a concession agreement at Will Rogers State Beach executed prior to December 31, 1997, including, but not limited to, an agreement signed pursuant to Section 25907 of the Government Code, may be extended to exceed 20 years in total length without specific authorization by statute, upon approval by the director and pursuant to a determination by the director that the longer term is necessary to allow the concessionaire to amortize improvements made by the concessionaire that are anticipated to exceed one million five hundred thousand dollars ($1,500,000) in capital improvements. Any extensions granted pursuant to this paragraph shall not be for more than 15 years.

(b) Every concessionaire shall submit to the department all sales and use tax returns.

(c) Every concession shall be subject to audit by the department.

(d) A performance bond shall be obtained and maintained by the concessionaire. In lieu of a bond, the concessionaire may substitute a deposit of funds acceptable to the department. Interest on the deposit shall accrue to the concessionaire.

(e) The concessionaire shall obtain and maintain in force at all times a policy of liability insurance in an amount adequate for the nature and extent of public usage of the concession and naming the state as an additional insured.

(f) Any discrimination by the concessionaire or his or her agents or employees against any person because of the marital status or ancestry of that person or any characteristic listed or defined in Section 11135 of the Government Code is prohibited.

(g) To be effective, any modification of the concession contract shall be evidenced in writing.

(h) Whenever a concession contract is terminated for substantial breach, there shall be no obligation on the part of the state to purchase any improvements made by the concessionaire.

## § 5080.19. Concession Contracts; Rental Rates and Rental Terms

(a) In order to assure the best possible return from concessions, the department shall periodically survey, and obtain advice and information from professional property managers regarding, the commercial rental market for public and private properties in areas where concessions exist or are expected to be authorized and compile information therefrom, and shall use that information for the purposes of Section 5080.06 and subdivision (b) of this section.

(b) Rent and other returns received from concessions shall reflect current commercial rental market conditions, except in instances when the director has determined that a particular service or facility needs to be furnished to the public and that service or facility cannot be furnished except at less than a fair market value rate of return to the state.

(c) Rental terms of concessions that operate seasonally shall reflect the seasonal characteristics of those concessions.

(d) Rent shall be paid on the basis of the higher of a flat monthly amount or a percentage of gross sales, except in those instances in which part of the compensation paid by a concessionaire consists of the value assigned to services performed by the concessionaire on behalf of the department and those services are of a type normally performed by departmental personnel.

## § 5080.20. Concession Contracts; Approval of Contracts

A contract, including a contract entered into on lands operated pursuant to an agreement entered into under Article 2 (commencing with Section 5080.30), that is expected to involve a total investment or estimated annual gross sales in excess of five hundred thousand dollars ($500,000), shall not be advertised for bid, negotiated, renegotiated, or amended in any material respect unless and until all of the following requirements have been complied with:

(a) The commission has reviewed the proposed services, facilities, and location of the concession and determined that they meet the requirements of Sections 5001.9 and 5080.03 and are compatible with the classification of the unit in which the concession will be operated.

(b) The Legislature has reviewed and approved the proposed concession as part of the annual budget process or the requirements of subdivision (c) have been complied with. A proposed concession shall not be submitted for review by the Legislature until the commission has made its determination pursuant to subdivision (a), unless deferring review by the Legislature would be adverse to the interests of the public, in which case the Legislature's review may precede the commission's determination.

(c) Following enactment of the Budget Bill, the board has determined that the proposed concession could not have been presented to the Legislature for review and approval in the course of its consideration of the Budget Bill, or the proposed concession was reviewed and approved but it is necessary to revise the terms of the invitation to bid or the contract in a material respect, and that it would be adverse to the interests of the public to defer that review and approval to a time when the Legislature next considers a Budget Bill. Upon making that determination, the board may review and approve the proposed concession, or any revision thereof, after giving at least 20 days' written notice to the Chair of the Joint Legislative Budget Committee and to the

chair of the fiscal and appropriate policy committees of its intended action. All actions taken by the board pursuant to this subdivision shall be reported to the Legislature in the next Governor's Budget.

(d) The proposed concession is accompanied with documentation sufficient to enable the Legislature, the commission, and the board, as the case may be, to ascertain whether the concession will conform to the requirements of this article and, as to the Legislature and the board, to evaluate fully all terms on which the concession is proposed to be let, including the rent and other returns anticipated to be received.

### § 5080.21. Concession Contracts; List New Concessions in Annual Statement

The department shall include in its annual statement on the concessions program a section setting forth all new concessions entered into during the preceding fiscal year, the terms of each contract, and the terms on which each concession was advertised for bid.

### § 5080.23. Concession Contracts; Best Responsible Person or Entity Submitting a Proposal

(a) Notwithstanding any other provision of this article, with respect to concession contracts entered into on and after October 1, 1994, if the director determines that it is in the best interests of the state, the director may, upon giving notice to the State Parks and Recreation Commission, in lieu of the process for awarding contracts otherwise prescribed in this article, award contracts authorizing occupancy of any portion of the state park system for a period of more than two years to the best responsible person or entity submitting a proposal for a concession contract.

(b) For any concession contract authorizing occupancy by the concessionaire for a period of more than two years of any portion of the state park system that is entered into pursuant to this section, the department shall prepare a request for proposal, which shall include the terms and conditions of the concession sufficient to enable a person or entity to submit a proposal for the operation of the concession on the basis of the best benefit to the state. Proposals shall be completed only on the basis of the request for proposal.

(c) Any concession contract entered into pursuant to this section that is expected to involve a total investment or gross sales in excess of five hundred thousand dollars ($500,000) shall comply with the requirements for entry into contract that are set forth in Section 5080.20.

(d) For purposes of this section, "best responsible person or entity submitting a proposal" means the person or entity submitting a proposal, as determined by specific standards established by the department, that will operate the concession in the best interests of the state and the public.

## § 5080.24. Concession Contracts: Pacific Grove-Asilomar Operating Corporation

(a) The department may enter into an interim agreement with the Pacific Grove-Asilomar Operating Corporation on the same basis as the cancelled contract, except that it shall be modified as specified by subdivisions (b) to (e), inclusive, until the department awards a contract pursuant to Section 5080.25.

(b) Any interim agreement pursuant to subdivision (a) shall provide that the amount of compensation received by the general manager of the Pacific Grove-Asilomar Operating Corporation shall be subject to determination by the Legislature in the annual Budget Act.

(c) Any interim agreement pursuant to subdivision (a) shall require the Pacific Grove-Asilomar Operating Corporation to continue to set rates and to take reservations for dates beyond the date for which the interim agreement is operative.

(d) Any interim agreement pursuant to subdivision (a) shall provide that the meetings of the board of directors of the Pacific Grove-Asilomar Operating Corporation shall be conducted in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) and the board of directors shall be considered a state body under subdivision (b) of Section 11121 of the Government Code.

(e) Any interim agreement pursuant to subdivision (a) shall provide that all business and financial records of the Pacific Grove-Asilomar Operating Corporation, including existing records, but not including records that would be personal information under Section 1798.3 of the Civil Code if maintained by an agency, shall be treated as public records subject to disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). The term "employment contract" as used in Section 6254.8 of the Government Code shall be deemed to mean an employment contract between the Pacific Grove-Asilomar Operating Corporation and its employee.

## § 5080.25. Concession Contracts; Construction, Maintenance and Operation of Concessions at the Asilomar Conference Grounds

(a) The department shall enter into a contract for the construction, maintenance, and operation of concessions at the Asilomar Conference Grounds. The contract shall be awarded pursuant to this article, except this section shall prevail in case of conflict between this section and this article.

(b) The contract shall not be advertised for bid, negotiated, renegotiated, or amended in any material respect unless it has been submitted to the Legislature for review.

(c) The contract shall require the concessionaire to pay for administrative costs, capital expenditures, and department staff necessary for the operation of, and improvements to, the Asilomar State Beach and Conference Center, including restoration projects.

(d) The contract shall require all capital improvements to the Asilomar State Beach and Conference Center to be solely the property of the state.

(e) The contract shall require the concessionaire to honor all rates and reservations made by the Pacific Grove-Asilomar Operating Corporation under the interim agreement described in Section 5080.24.

(f) The contract shall require the concessionaire to give preference to the employees of the Pacific Grove-Asilomar Operating Corporation when staffing the operation of the concessionaire.

(g) The contract shall emphasize the importance of protecting the natural and cultural values of the Asilomar State Beach and Conference Center.

(h) In awarding the contract, the department shall consider bids or proposals from both nonprofit and for-profit entities.

(i) If the contract is awarded to a concessionaire governed by a board of directors, the contract shall require the department to be present at meetings of the board of directors relating to the construction, maintenance, finances, or operation of concessions at the Asilomar Conference Grounds, and shall require those meetings to be conducted in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code). If the contract is awarded to a concessionaire that is not governed by a board of directors, the contract shall require the concessionaire to hold quarterly meetings at the Asilomar Conference Grounds, relating to the construction, maintenance, finances, or operation of concessions at the Asilomar Conference Grounds, at which the department shall be present, that shall be conducted in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(j) The contract shall provide that all business and financial records of the concessionaire relating to the construction, maintenance, or operation of concessions at the Asilomar Conference Grounds, including existing records, but not including records that would be personal information under Section 1798.3 of the Civil Code if maintained by an agency, shall be treated as public records subject to disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). The term “employment contract” as used in Section 6254.8 of the Government Code shall be deemed to mean an employment contract between the concessionaire and its employee.

(k) In awarding the contract, the department shall consider without prejudice any bid or proposal submitted by the Pacific Grove-Asilomar Operating Corporation.

(l) The department shall, for the purpose of ensuring that all bidders are afforded an equal opportunity to compete for the contract, consider the estimated amount of fees or taxes that might be paid to the state or to a local government by a bidder as a result of the contract among those factors to be used to evaluate the bidder's bid or proposal for the contract. The department shall consult with the Department of Finance and the Board of Equalization to obtain information necessary to estimate the amount of fees or taxes that might be paid by a bidder as a result of the contract.

(m) Any revenues received by the department pursuant to the contract that are identified by the department as funds in excess of the approved operating budget and the approved capital improvement budget for the Asilomar Conference Grounds shall be deposited in the State Parks and Recreation Fund.

(n) On or before January 1, 1995, the department shall submit a request for proposal for the contract to the Assembly Water, Parks, and Wildlife Committee, the Senate Natural Resources Committee, the Assembly Ways and Means Committee, and the Senate Budget and Fiscal Review Committee for review.

## § 5080.26. Concession Contracts; Public Notice of a Request for Proposal

(a) Notwithstanding Sections 11080 and 11081 of the Government Code, public notice of a request for proposal shall be given to persons or entities for the purpose of soliciting proposals for any concession contract authorizing the occupancy of property in the state park system for a period of more than two years that is entered into pursuant to Section 5080.23, as follows:

(1) The department shall advertise the notice through appropriate public media to the extent that the department determines is sufficient to provide adequate coverage.

(2) The department shall publish an advertisement for a proposal at least once a week for two consecutive weeks in a newspaper of general circulation in the county in which the concession is to operate and in a major daily newspaper in the closest metropolitan area.

(3) If the director determines that, in view of the type of concession involved, the public interest would be best served by the solicitation of proposals from out-of-state persons or entities, the director shall give such additional notice as the director finds is best suited to attract proposals from out-of-state persons or entities.

(b) The published notice shall state where forms for proposals may be obtained, the time and place for the receipt and review of proposals, and shall describe, in general terms, the concession to be operated.

### § 5080.28. Concession Contracts; Columbia State Park

Notwithstanding any other provision of law, the department may negotiate an agreement of up to two years duration to extend the hotel concession contract in existence on January 1, 1999, for the Columbia State Park. Upon termination of the extension agreement, the concession shall be put out to bid in accordance with the bidding requirements of this article.

### § 5080.29. Concession Contracts; Development, Operation, and Maintenance of Marinas

Notwithstanding any other provision of law, including subdivision (a) of Section 5080.18, the department may enter into concession contracts for the development, operation, and maintenance of marinas, for a term of up to 30 years, if the director determines that the term authorized under this section is necessary to allow for amortization of the loan, or to serve the best interests of the state.

## CHAPTER 1.25. Off-Highway Motor Vehicle Recreation

## ARTICLE 1. General Provisions

## [OHV Program Provisions]

### § 5090.01. Citation of Act

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

### § 5090.02. Legislative Findings and Intent

(a) The Legislature finds all of the following:

(1) Off-highway motor vehicles are enjoying an ever-increasing popularity in California.

(2) Off-highway recreation includes both motorized recreation and motorized off-highway access to nonmotorized recreation activities.

(3) The indiscriminate and uncontrolled use of those vehicles may have a deleterious impact on the environment, wildlife habitats, native wildlife, and native flora.

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

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

(1) Existing off-highway motor vehicle recreational areas, facilities, and opportunities should be expanded and managed in a manner consistent with this chapter, in particular to maintain sustained long-term use.

(2) New off-highway motor vehicle recreational areas, facilities, and opportunities should be provided and managed pursuant to this chapter in a manner that will sustain long-term use.

(3) The department should support both motorized recreation and motorized off-highway access to nonmotorized recreation.

(4) When areas or trails or portions thereof cannot be maintained to appropriate established standards for sustained long-term use, they should be closed to use and repaired, to prevent accelerated erosion. Those areas should remain closed

until they can be managed within the soil conservation standard or should be closed and restored.

(5) Prompt and effective implementation of the Off-Highway Motor Vehicle Recreation Program by the department and the Division of Off-Highway Motor Vehicle Recreation should have an equal priority among other programs in the department.

(6) Off-highway motor vehicle recreation should be managed in accordance with this chapter through financial assistance to local governments and joint undertakings with agencies of the United States and with federally recognized Native American tribes.

### § 5090.03. Construction of Chapter

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

### § 5090.04. "Commission"

"Commission" means the Off-Highway Motor Vehicle Recreation Commission.

### § 5090.05. "Division"

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

### § 5090.06. "Fund"

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

### § 5090.07. "Off-Highway Motor Vehicle"

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

### § 5090.08. "Program"

"Program" means the Off-Highway Motor Vehicle Recreation Program.

### § 5090.09. "System"

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

### § 5090.10. "Conservation"

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

### § 5090.11. "Restoration"

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

### § 5090.12. "Grant Program"

"Grant program" means the local assistance grant program and the cooperative agreement program.

## ARTICLE 2. Off-Highway Motor Vehicle Recreation Commission

### § 5090.15. Creation of Commission; Members; Appointment[2]

(a) There is in the department the Off-Highway Motor Vehicle Recreation Commission, consisting of nine members, five of whom shall be appointed by the Governor and subject to Senate confirmation, two of whom shall be appointed by the Senate Committee on Rules, and two of whom shall be appointed by the Speaker of the Assembly.

(b) In order to be appointed to the commission, a nominee shall represent one or more of the following groups:

(1) Off-highway vehicle recreation interests.

(2) Biological or soil scientists.

[2] For more information on Commission Rules and Duties, see Gov. Code § 1774 (a)-(c).

(3) Groups or associations of predominantly rural landowners.

(4) Law enforcement.

(5) Environmental protection organizations.

(6) Nonmotorized recreation interests.

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

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

### § 5090.16. Place of Residence of Members

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

### § 5090.17. Terms of Members

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

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

### § 5090.18. Filling Vacancies

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

### § 5090.19. Election of Chairperson

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

### § 5090.20. Director as Secretary

The director is the secretary of the commission.

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

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

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

## § 5090.22. Committees; Members; Jurisdiction

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

## § 5090.24. Duties and Responsibilities; Program Report[3]

The commission has the following particular duties and responsibilities:

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

(b) Meet at least four times per year at various locations throughout the state to receive comments on the implementation of the program. Establish an annual calendar of proposed meetings at the beginning of each calendar year. The meetings shall include a public meeting, before the beginning of each grant program cycle, to collect public input concerning the program, recommendations for program improvements, and specific project needs for the system.

(c) Hold a public hearing to receive public comment regarding any proposed substantial acquisition or development project at a location in close geographic proximity to the project, unless a hearing consistent with federal law or regulation has already been held regarding the project.

(d) Consider, upon the request of any owner or tenant, whose property is in the vicinity of any land in the system, any alleged adverse impacts occurring on that person's property from the operation of off-highway motor vehicles and recommend to the division suitable measures for the prevention of any adverse impact determined by the commission to be occurring, and suitable measures for the restoration of adversely impacted property.

[3] See also PRC § 5002.2 and PRC § 5080.2.

(e) Review and comment annually to the director on the proposed budget of expenditures from the fund.

(f) Review all plans for new and expanded local and regional vehicle recreation areas that have applied for grant funds.

(g) Review and comment on the strategic plan developed by the division pursuant to Section 5090.32.

(h) Prepare and submit a program report to the Governor, the Assembly Water, Parks, and Wildlife Committee, the Senate Committee on Natural Resources and Water, and the Committee on Appropriations of each house on or before January 1, 2011, and every three years thereafter. The report shall be adopted by the commission after discussing the contents during two or more public meetings. The report shall address the status of the program and off-highway motor vehicle recreation, including all of the following:

(1) The results of the strategic planning process completed pursuant to subdivision (l) of Section 5090.32.

(2) The condition of natural and cultural resources of areas and trails receiving state off-highway motor vehicle funds and the resolution of conflicts of use in those areas and trails.

(3) The status and accomplishments of funds appropriated for restoration pursuant to paragraph (2) of subdivision (b) of Section 5090.50.

(4) A summary of resource monitoring data compiled and restoration work completed.

(5) Actions taken by the division and department since the last program report to discourage and decrease trespass of off-highway motor vehicles on private property.

(6) Other relevant program-related environmental issues that have arisen since the last program report.

## ARTICLE 3. Division Of Off-Highway Motor Vehicle Recreation

### § 5090.30. Creation of Division

There is in the department the Division of Off-Highway Motor Vehicle Recreation. Whenever any reference is made to the Office of Off-Highway Motor Vehicle Recreation,

it shall be deemed to be a reference to, and to mean, the division. Section 507.1[4] does not apply to the division.

## § 5090.31. Appointment of Deputy Director; Responsibilities

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

## § 5090.32. Exclusive Functions of Division

The division has the following duties and responsibilities:

(a) Planning, acquisition, development, conservation, and restoration of lands in the state vehicular recreation areas.

(b) Direct management, maintenance, administration, and operation of lands in the state vehicular recreation areas.

(c) Provide for law enforcement and appropriate public safety activities.

(d) Implementation of all aspects of the program.

(e) Ensure program compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000)) in state vehicular recreation areas.

(f) Provide staff assistance to the commission.

(g) Prepare and implement plans for lands in, or proposed to be included in, state vehicular recreation areas, including new state vehicular recreation areas. However, a plan shall not be prepared in any instance specified in subdivision (c) of Section 5002.2[5]

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

[5]PRC § 5002.2c) Notwithstanding the requirements of subdivision (a) [regarding mandatory preparation or revision of general plans], the department is not required to prepare a general plan for a unit that has no general plan or to revise an existing plan, as the case may be, if the only development contemplated by the department consists of the repair, replacement, or rehabilitation of an existing facility; the construction of a temporary facility, so long as such construction does not result in the permanent commitment of a resource of the unit; any undertaking necessary for the protection of public health or safety; or any emergency measure necessary for the immediate protection of

(h) Conduct, or cause to be conducted, surveys, and prepare, or cause to be prepared, studies that are necessary or desirable for implementing the program.

(i) Recruit and utilize volunteers to further the objectives of the program.

(j) Prepare and coordinate safety and education programs.

(k) Provide for the enforcement of Division 16.5 (commencing with Section 38000) of the Vehicle Code and other laws regulating the use or equipment of off-highway motor vehicles in all areas acquired, maintained, or operated by funds from the fund; however, the Department of the California Highway Patrol shall have responsibility for enforcement on highways.

(l) Complete by January 1, 2009, a strategic planning process that will identify future off-highway motor vehicle recreational needs, including, but not limited to, potential off-highway motor vehicle parks in urban areas to properly direct vehicle operators away from illegal or environmentally sensitive areas. This strategic planning process shall take into consideration, at a minimum, environmental constraints, infrastructure requirements, demographic limitations, and local, state, and federal land use planning processes. The strategic plan shall be reviewed by the commission and updated periodically.

### § 5090.34. Publication and Sale of Guidebook; Contents

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

(1) The text of laws and regulations relating to the program and operation of off-highway vehicles.

(2) A statewide map and regional maps of federal, state, and local off-highway vehicle recreation areas and facilities in the state, including links to maps of federal off-highway vehicle routes resulting from the route designation process.

(3) Information concerning safety, education, and trail etiquette.

(4) Information to prevent trespass, damage to public and private property, and damage to natural resources, including penalties and liability associated with trespass and damage caused.

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natural or cultural resources; or any combination thereof at a single unit. Any development is subject to the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(b) The division shall create a guidebook of federal, state, and local off-highway vehicle recreation opportunities that includes contact information where current specific maps and information for each facility can be located. Contact information may include Web site addresses, telephone numbers, and addresses of offices where maps can be accessed. The guidebook shall also include the address of the Web site where the information in subdivision (a) may be found.

(c) The division shall work with retailers of off-highway motor vehicles and off-highway recreation associations to distribute the guidebook developed under subdivision (b) and to increase awareness of the resources available on the division's Internet Web site.

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

(a) The protection of public safety, the appropriate utilization of lands, and the conservation of land resources are of the highest priority in the management of the state vehicular recreation areas; and, accordingly, the division shall promptly repair and continuously maintain areas and trails, anticipate and prevent accelerated and unnatural erosion, and restore lands damaged by erosion to the extent possible.

(b) (1) The division, in consultation with the United States Natural Resource Conservation Service, the United States Geological Survey, the United States Forest Service, the United States Bureau of Land Management, and the California Department of Conservation shall update the 1991 Soil Conservation Guidelines and Standards to establish a generic and measurable soil conservation standard by March 1, 2006, at least sufficient to allow restoration of off-highway motor vehicle areas and trails. The 1991 Soil Conservation Guidelines and Standards shall remain in effect until they are updated pursuant to this subdivision.

(2) Upon a determination that the soil conservation standards and habitat protection plans are not being met in any portion of any state vehicular recreation area the division shall temporarily close the noncompliant portion to repair and prevent accelerated erosion, until the soil conservation standards are met.

(3) Upon a determination that the soil conservation standards cannot be met in any portion of any state vehicular recreation area the division shall close and restore the noncompliant portion pursuant to Section 5090.11.

(c) (1) The division shall make an inventory of wildlife populations and their habitats in each state vehicular recreation area and shall prepare a wildlife habitat protection program to sustain a viable species composition specific to each state vehicular recreation area by July 1, 1989.

(2) If the division determines that the habitat protection program is not being met in any portion of any state vehicular recreation area, the division shall close the noncompliant portion temporarily until the habitat protection program is met.

(3) If the division determines that the habitat protection program cannot be met in any portion of any state vehicular recreation area, the division shall close and restore that noncompliant portion pursuant to Section 5090.11.

(d) The division shall monitor the condition of soils and wildlife habitat in each state vehicular recreation area each year in order to determine whether the soil conservation standards and habitat protection programs are being met.

(e) The division shall not fund trail construction unless the trail is capable of complying with the conservation specifications prescribed in subdivisions (b) and (c). The division shall not fund trail construction where conservation is not feasible.

(f) The division shall monitor and protect cultural and archaeological resources within the state vehicular recreation areas.

### § 5090.36. Contracts and Agreements

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

### § 5090.37. Prohibition Against Exercise of Eminent Domain

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

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

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

## ARTICLE 4. State Vehicular Recreation Areas

### § 5090.41. Hollister Hills State Vehicular Recreation Area; Management

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

(a) The division shall designate and set aside 280 acres for nature study, which shall be closed to the operation of off-highway motor vehicles. The division shall, in carrying out this subdivision, protect the natural and cultural values of the designated lands by taking appropriate measures, which may include the erection of physical barriers to off-highway vehicle use.

(b) The division shall identify approximately 395 acres as a "Buffer Zone" on the Record of Survey filed by the State of California with the County Recorder of San Benito County, California, on April 2, 1990, in the Book of Maps, Number 10, Page Number 79, plus the three southernmost areas, consisting of approximately 196 acres identified on Figure I-2, Page 5, Appendix, Environmental Impact Report for Acquisition of Additional Land at Hollister Hills SVRA, State Clearinghouse Number 88051716, which shall be closed to the operation of off-highway motor vehicles.

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

(a) State vehicular recreation areas shall be established on lands where there are quality recreational opportunities for off-highway motor vehicles and in accordance with the requirements of Section 5090.35. Areas shall be developed, managed, and operated for the purpose of making the fullest public use of the outdoor recreational opportunities present. The natural and cultural elements of the environment may be managed or modified to enhance the recreational experience consistent with the requirements of Section 5090.35.

(b) Lands for state vehicular recreation areas shall be selected for acquisition so as to minimize the need for establishing sensitive areas.

(c) After January 1, 1988, no new cultural or natural preserves or state wildernesses shall be established within state vehicular recreation areas. To protect natural and cultural values, sensitive areas within state vehicular recreation areas may be designated by the division if the Off-Highway Motor Vehicle Recreation Commission holds a public hearing and makes a recommendation therefor. These sensitive areas shall be

managed by the division in accordance with Sections 5019.71[6] and 5019.74[7] which define the purpose and management of natural and cultural preserves.

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

## ARTICLE 4.5. California Statewide Motorized Trail

### § 5090.44. California Statewide Motorized Trail

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

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

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

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

### § 5090.50. Grants and Cooperative Agreements[8]

(a) The division shall develop and implement a grant and cooperative agreement program to support the planning, acquisition, development, maintenance, administration, operation, enforcement, restoration, and conservation of trails, trailheads, areas, and other facilities associated with the use of off-highway motor vehicles, and programs involving off-highway motor vehicle safety or education.

(b) When appropriated by the Legislature for grants and cooperative agreements, available funds shall be awarded in accordance with the following categories:

(1) Operation and maintenance.

(A) Fifty percent of the funds appropriated by the Legislature pursuant to subdivision (a) of Section 5090.61 shall be expended solely for grants and cooperative agreements for the acquisition, maintenance, operation, planning, development, or conservation of trails and facilities associated with the use of off-highway motor vehicles for recreation or motorized access to nonmotorized recreation.

(B) Guidelines developed to implement this paragraph, pursuant to subdivision (d), shall at a minimum:

(i) Give preference to applications that sustain existing off-highway motor vehicle recreation opportunities.

(ii) Give additional consideration to applications that improve facilities that provide motorized access to nonmotorized recreation opportunities.

(C) Applications that would affect lands identified as inventoried roadless areas by the Forest Service of the United States Department of Agriculture are eligible for cooperative agreements under paragraph (1) if the application is for a project that does any of the following:

(i) Realigns a forest system road or trail to prevent irreparable resource damage that arises from the design, location, use, or deterioration of a classified route and that cannot be mitigated by route maintenance.

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[8] See CCR, Title 14, Division 3, Chapter 15 for OHMVR Grants and Cooperative Agreements Program Regulations.

(ii) Reconstructs a national forest system road or trail to implement a route safety improvement project on a classified route determined to be hazardous on the basis of accident experience or accident potential on that route.

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

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

(2) Restoration.

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

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

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

(D) Eligible projects include:

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

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

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

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

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

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

(E) Eligible applicants include local, state, and federal entities, Native American tribes, educational institutions, and eligible nonprofit organizations.

(F) Guidelines developed to implement this paragraph shall at a minimum do all of the following:

(i) Give additional consideration to applications for projects that will restore areas that have the potential for the most significant environmental damage.

(ii) Guarantee that no grant will be used for the development or maintenance of trails for motorized use.

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

(3) Law enforcement.

(A) Twenty percent of the funds appropriated by the Legislature pursuant to subdivision (a) of Section 5090.61 shall be available for law enforcement grants and cooperative agreements and shall be allocated to local and federal law enforcement entities for personnel and related equipment. The amount of the grant or cooperative agreement shall be proportionate to the off-highway motor vehicle enforcement needs under each entity's jurisdiction.

(B) The division shall develop a method to determine the law enforcement needs for each applicant. Forty percent of law enforcement grants and cooperative agreements shall be given to local law enforcement entities, 30 percent to units of the United States Bureau of Land Management, and 30 percent to units of the United States Forest Service.

(C) The division shall develop eligibility guidelines for law enforcement projects. The guidelines, at a minimum, shall require the applicant to do all of the following:

(i) Specify formal and informal cooperation with other appropriate law enforcement entities, including any applicable federal entities.

(ii) Establish a policy on how violations of off-highway motor vehicle laws and regulations will be enforced on federal land, if the applicant is a local law enforcement entity.

(iii) Identify areas with high priority law enforcement needs because of public safety, cultural resources, and sensitive environmental habitats, including wilderness areas and areas of critical environmental concern.

(iv) Explain whether the applicant is recovering a portion of law enforcement costs directly associated with privately sponsored events where sponsors have obtained a local permit.

(v) Establish a public education program that includes information regarding safety programs offered in the area and how to report off-highway motor vehicle operation violations.

(vi) Specify how personnel is trained and educated regarding off-highway motor vehicle safety and resource and cultural protection.

(D) Notwithstanding subdivision (h), law enforcement entities that receive funds allocated pursuant to this paragraph shall be subject to a financial and performance audit at least once every five years. The audits may be conducted in a random order. As part of the audit, the department shall consider whether the law enforcement entity has spent the grant money in accordance with its application.

(4) Education and safety. Five percent of the funds appropriated by the Legislature pursuant to subdivision (a) of Section 5090.61 shall be available for grants and cooperative agreements that either provide comprehensive education that teaches off-highway motor vehicle safety, environmental responsibility, and respect for private property, or provide safety programs associated with off-highway motor vehicle recreation.

(c) Eligible grant and cooperative agreement applicants include:

(1) Cities, counties, and districts that have approval to apply for grant funds, in the form of a resolution from their governing body.

(2) State agencies for projects under paragraph (2) of subdivision (b).

(3) Agencies of the United States.

(4) Federally recognized Native American tribes.

(5) Education and nonprofit organizations for eligible projects described in subdivision (f).

(d) Guidelines developed to implement this program shall at a minimum do all of the following:

(1) Distribute grants and cooperative agreements on a competitive basis, except for law enforcement grants allocated in accordance with paragraph (3) of subdivision (b).

(2) Be developed with public input, including focus groups.

(3) Require applications to be in accordance with local or federal plans and the strategic plan for off-highway motor vehicle recreation prepared by the division.

(4) Require grant applicants to comply with the California Environmental Quality Act (Division 13 (commencing with Section 21000)). Applicants for cooperative agreements shall complete environmental review procedures that are at least comparable to those of the California Environmental Quality Act (Division 13 (commencing with Section 21000)).

(5) Require the applicant to agree to provide matching funds or the equivalent value of services or material used, in an amount not less than 25 percent of the total project cost.

(6) Require the applicant, if it is a city or county, to disclose how fees collected pursuant to Section 38230 of the Vehicle Code are being used and whether the use of these fees complements the applicant's project.

(7) Fund all eligible applications to the extent feasible.

(e) All grants and cooperative agreements involving ground disturbing activities shall be subject to the uniform application of soil and wildlife habitat protection standards specified in Section 5090.53.

(f) Grants may be awarded to educational institutions and nonprofit organizations. Eligible projects shall be limited to scientific research, natural resource conservation activities, trail and facility maintenance, restoration, and programs involving off-highway motor vehicle safety or education. If the application for grant funds involves activities on any public lands, all of the following shall apply:

(1) The applicant shall include a work plan for the project.

(2) The applicant shall provide written permission from the appropriate land manager to conduct a project, including a description of how the project fits with the land management goals of the area.

(3) The applicant shall provide matching funds or the equivalent value of volunteer services or material used, in an amount not less than 25 percent of the total project cost.

(4) The applicant shall be fiscally responsible for adhering to the terms and conditions of the grants.

(g) The deputy director of the division shall not participate in the scoring of grants or cooperative agreements.

(h) The department shall conduct an annual financial audit of the grants and cooperative agreements program. During each year, the department shall also conduct, or cause to be conducted, an audit of the performance of a minimum of 20 percent of grant and cooperative agreement recipients.

(i) The division shall establish an administrative appeal process as part of the grants and cooperative agreements program. At a minimum, this process shall do all of the following:

(1) Give applicants the right to appeal on the following grounds:

(A) The division failed to follow regulations established for the award of grants and cooperative agreements.

(B) The division lacked sufficient factual evidence to support or deny the award of a grant or cooperative agreement.

(2) Require the applicant to first appeal to the deputy director of the division. If that appeal is denied, the applicant may then appeal to the director of the division, or the director's appointee.

(3) Require applicants to file their first appeal within 30 calendar days following the notice of award or denial of a grant or cooperative agreement. Notice of the decision or the rejection of the appeal shall be issued within 60 days following the filing of an appeal.

(4) Require applicants to exhaust these appeal rights prior to seeking other legal remedies through the courts.

(j) A grant shall not be made, nor a cooperative agreement entered into, pursuant to this section without the approval of the director.

## § 5090.53. Conditions for Grants or Encumbrance of Funds

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

(a) If the project involves a ground disturbing activity, the recipient has completed wildlife habitat and soil surveys and has prepared a wildlife habitat protection program to sustain a viable species composition for the project area.

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

(c) If the project involves a ground disturbing activity, the recipient agrees that, whenever the soil conservation standards adopted pursuant to Section 5090.35 are not being met in any portion of a project area, the recipient shall close temporarily that noncompliant portion, to repair and prevent accelerated erosion, until the same soil conservation standards adopted pursuant to Section 5090.35 are met.

(d) If the project involves a ground disturbing activity, the recipient agrees that, whenever the wildlife habitat protection program prepared pursuant to subdivision (a) is not being met in any portion of a project area, the recipient shall close temporarily that noncompliant portion until the same wildlife habitat protection program prepared pursuant to subdivision (a) is met.

(e) The recipient agrees to enforce the registration of off-highway motor vehicles and the other provisions of Division 16.5 (commencing with Section 38000) of the Vehicle Code and to enforce the other applicable laws regarding the operation of off-highway motor vehicles.

(f) The recipient agrees to cooperate with appropriate law enforcement entities to provide proper law enforcement at and around the facility.

(g) The recipient has identified the potential for the facility to reduce illegal and unauthorized off-highway motor vehicle recreation activities in the surrounding areas.

(h) The recipient has included in its application a description of how it is meeting the operations and maintenance needs of any existing off-highway motor vehicle recreation facility under its jurisdiction.

## ARTICLE 6. Fiscal Management

### § 5090.60. Sources of Moneys in the OHV Trust Fund

The fund consists of deposits from the following sources:

(a) Revenues transferred from the Motor Vehicle Fuel Account in the Transportation Tax Fund.

(b) Fees paid pursuant to subdivision (b) of Section 38225 of the Vehicle Code.

(c) Unexpended service fees.

(d) Fees and other proceeds collected at state vehicular recreation areas, as provided in subdivision (c) of Section 5010.

(e) Reimbursements.

(f) Revenues and income from any other source required by law to be deposited in the fund.

### § 5090.61. Appropriation and Allocation of Moneys in Fund

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

(a) An amount, not to exceed 50 percent of the annual revenues to the fund, shall be available for grants and cooperative agreements pursuant to Article 5 (commencing with Section 5090.50).

(b) (1) The remainder of the annual revenues to the fund shall be available for the support of the division in implementing the off-highway motor vehicle recreation program and for the planning, acquisition, development, construction, maintenance, administration, operation, restoration, and conservation of lands in the system.

(2) As used in this subdivision, "support of the division" includes functions performed outside of the division by others on behalf of the division, including costs incurred on behalf of the division for personnel management and training, accounting, and fiscal analysis, records, purchasing, public information activities, consultation of professional scientists and reclamation experts for the purposes of Section 5090.35, and legal services. "Support of the division" does not include costs incurred by, or attributable to, the director or the director's immediate staff, or their salaries.

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

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

## ARTICLE 7. Termination

### § 5090.70. Repeal of Chapter

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

## CHAPTER 1.27. California SNO-PARK Permit Program

## ARTICLE 1. General Provisions

### § 5091.01. Legislative Findings

(a) The Legislature finds that as the popularity of winter recreation has steadily grown, so too has the problem of insufficient parking areas for participants.

(b) The Legislature hereby declares that adequate parking facilities for winter recreation are essential to ensure safety and well-being of the states' winter recreationists.

(c) Accordingly, in furtherance of the California Outdoor Recreation Plan, it is the intent of the Legislature to establish the California SNO-PARK Permit Program, whereby winter recreationists may purchase a windshield sticker that will allow them to park in any of the roadside parking areas to be established and plowed for this purpose.

### § 5091.02. Definitions

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

(a) "Authorized vendor" means a retail commercial enterprise, authorized by the department to sell SNO-PARK permits established by this chapter.

(b) "Department" means the Department of Parks and Recreation.

(c) "Fund" means the Winter Recreation Fund.

(d) "Designated parking area" means an area located, constructed, maintained, and signed pursuant to this chapter.

(e) "Winter recreation" means any recreational activity principally dependent upon snow-covered ground, including, but not limited to, cross-country skiing, snowshoeing, sledding, ice fishing, snow camping, dog-sledding, and snowmobiling.

## ARTICLE 2. Designation of Parking Areas

### § 5091.10. Public Hearings; Designation; Snow Removal

(a) The State Park and Recreation Commission shall hold at least two public hearings, one in the northern portion of the state and one in the southern portion of the state, to seek proposals from individuals, winter recreation user groups, the department, and other public agencies for parking areas to be designated under this chapter.

(b) The director shall appoint a committee, which shall be known as the "Winter Recreation Committee," to advise the director on the location of designated parking areas.

(c) The department shall, after consultation with the State Park and Recreation Commission, the Department of Transportation, the Department of the California Highway Patrol, the appropriate boards of supervisors, and any local public or private persons owning lands adjacent to each site, designate winter recreation parking locations throughout the state and include the sites as an element of the California outdoor recreation plan. The department may enter into long-range agreements for the utilization of private and public lands for the programs. The location and design of any proposed site adjacent to, or directly impacting on, a state highway shall be reviewed and approved by the Department of Transportation. The location and design of any proposed site adjacent to, or directly impacting on, a county road shall be reviewed and approved by the appropriate board of supervisors.

(d) Using funds appropriated from the Winter Recreation Fund and allocated pursuant to paragraph (1) of subdivision (b) of Section 5091.25, the Department of Transportation shall provide for the removal of snow accumulating on designated parking areas according to priorities established by the Department of Transportation in consultation with the department. The removal of snow from the roadway of state highways shall always take precedence over the removal of snow from designated parking areas.

(e) Using funds appropriated from the Winter Recreation Fund and allocated pursuant to paragraph (3) of subdivision (b) of Section 5091.25, the department may make grants to counties for the removal of snow accumulating on designated parking areas. The department may contract with the appropriate public and private entities for snow removal, provision of sanitary facilities, signage, trash removal, parking lot repairs, and other services. In no event shall the removal of snow on designated parking areas become a county responsibility, except by agreement with the appropriate board of supervisors.

## ARTICLE 3. Sno-Park Permit Program

### § 5091.15. Permit Requirement; Exemption; Fee; Violations

(a) Except as provided in this section, no person shall, from November 1 of any year to May 30 of the next year or for a shorter time as determined by the department, park a vehicle in a designated parking area unless the vehicle displays a parking permit issued by the department. Overnight camping in a vehicle parked in a designated parking area may be authorized by the department when it determines that the use is for a recreational activity, is safe and prudent, and is of limited duration.

(b) No parking permit shall be required under this section for a vehicle owned and operated by the United States, another state or political subdivision thereof, or by this state or by a city, county, district, or political subdivision thereof.

(c) The fee for the issuance of a parking permit under this chapter shall be determined by the department. The department shall hold at least one public hearing and notify the Legislature at least 30 days prior to any proposal to change the fees.

(d) A person who violates this section is guilty of an infraction punishable by a fine of seventy-five dollars ($75). Unless the peace officer issuing the citation witnesses the parking of the vehicle, a rebuttable presumption exists that a vehicle parked in violation of this section was parked by the registered owner of the vehicle. If the parking of the vehicle is witnessed by the peace officer, the operator of the vehicle is in violation of this section.

(e) The department may negotiate reciprocity agreements with other states having similar programs if the agreements are in the best interests of the California SNO-PARK program.

(f) The department may contract with appropriate agencies for law enforcement, including, but not limited to, the Department of the California Highway Patrol, the county sheriffs, and the United States Department of Agriculture Forest Service. Enforcement activities may be funded with moneys appropriated from the Winter Recreation Fund.

## ARTICLE 4. Permits

### § 5091.20. Sale and Distribution; Vendors

(a) The department shall print the permits required by this chapter and shall supervise the sale of the permits throughout the state.

(b) The department shall either distribute and sell the permits directly or contract with vendors according to rules and regulations adopted by the department. The authorized vendors shall be bonded in accordance with the rules and regulations and shall receive a stipulated commission for each permit sold.

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

## ARTICLE 5. Revenues

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

(a) Proceeds from the sale of SNO-PARK parking permits shall be paid to the State Treasury to the credit of the Winter Recreation Fund, which is hereby created.

(b) The moneys in the Winter Recreation Fund shall be allocated, when appropriated, as follows:

(1) An amount equal to the actual and necessary costs incurred in the removal of snow from designated parking areas shall be paid to the Department of Transportation.

(2) The balance of the funds shall be expended for the acquisition, lease, development, and maintenance of additional designated parking areas, for sanitation facilities, trailhead markings, and other facilities designed to promote the safety and well-being of persons engaged in winter recreation, and for grants to counties for the actual and necessary costs incurred in the removal of snow from designated parking areas, and to inform and educate the public about the program.

### § 5091.26. Exercise of Eminent Domain Prohibited

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

### § 5091.27. Rules and Regulations

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

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# CALIFORNIA
# REVENUE AND TAXATION CODE

## DIVISION 2. Other Taxes

## PART 2, CHAPTER 7. Overpayments and Refunds

## ARTICLE 1. Refunds on Certain Sales

## [OHV Program Provisions]

### § 7326. Motor Vehicle Fuel Defined

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

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

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

(a) Any person who buys and uses the motor vehicle fuel for purposes other than operating motor vehicles upon the public highways of the state, except vehicles subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code, which are used for recreational purposes or are rented or leased for recreational purposes, and, on and after July 1, 1974, except motor vehicles subject to registration under Division 3 (commencing with Section 4000) of the Vehicle Code while engaged in off-highway recreational use.

(b) Any person who exports the motor vehicle fuel for use outside of this state. Motor vehicle fuel carried from this state in the fuel tank of a motor vehicle or aircraft is not deemed to be exported from this state unless the motor vehicle fuel becomes subject to tax as an "import" under the laws of the destination state.

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

## PART 2, CHAPTER 10. Distribution of Proceeds

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

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

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

Notwithstanding any other provision of law, the Controller may use the funds in the Motor Vehicle Fuel Account in the Transportation Tax Fund for cashflow loans to the General Fund as provided in Sections 16310 and 16381 of the Government Code. Any such loan shall be exempt from paragraph (2) of subdivision (b) of Section 16310 of the Government Code. Interest shall be paid on all moneys loaned to the General Fund and shall be computed at a rate determined by the Pooled Money Investment Board to be the current earning rate of the fund from which the money is loaned. This subdivision does not authorize any transfer that would interfere with the carrying out of the object for which these funds were created.

### § 8352. Appropriations from Fund

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

### § 8352.1. Authorized Expenditures

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

(a) To pay the refunds authorized in this part, including refunds due on account of judgments for the return of taxes illegally collected.

(b) To the Controller, to carry out any duties imposed upon him or her by this part.

(c) To the board, to carry out any duties imposed upon it by this part.

(d) To pay the pro rata share of the overhead and general administrative expense of the Controller and the board attributable to duties imposed by this part. The pro rata share is payable upon presentation of a claim against any appropriation from the Motor Vehicle Fuel Account for the support of the Controller or the board, as the case may be.

## § 8352.2. Transfers to the State Transportation Fund

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

## § 8352.6. Fuel Tax Transfers to the OHV Trust Fund

(a) (1) Subject to Section 8352.1, and except as otherwise provided in paragraphs (2) and (3), on the first day of every month, there shall be transferred from moneys deposited to the credit of the Motor Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund created by Section 38225 of the Vehicle Code an amount attributable to taxes imposed upon distributions of motor vehicle fuel used in the operation of motor vehicles off highway and for which a refund has not been claimed. Transfers made pursuant to this section shall be made prior to transfers pursuant to Section 8352.2.

(2) Commencing July 1, 2012, the revenues attributable to the taxes imposed pursuant to subdivision (b) of Section 7360 and Section 7361.1 and otherwise to be deposited in the Off-Highway Vehicle Trust Fund pursuant to paragraph (1) shall instead be transferred to the General Fund. The revenues attributable to the taxes imposed pursuant to subdivision (b) of Section 7360 and Section 7361.1 that were deposited in the Off-Highway Vehicle Trust Fund in the 2010-11 and 2011-12 fiscal years shall be transferred to the General Fund.

(3) The Controller shall withhold eight hundred thirty-three thousand dollars ($833,000) from the monthly transfer to the Off-Highway Vehicle Trust Fund pursuant to paragraph (1), and transfer that amount to the General Fund.

(b) The amount transferred to the Off-Highway Vehicle Trust Fund pursuant to paragraph (1) of subdivision (a), as a percentage of the Motor Vehicle Fuel Account, shall be equal to the percentage transferred in the 2006-07 fiscal year. Every five years, starting in the 2013-14 fiscal year, the percentage transferred may be adjusted by the Department of Transportation in cooperation with the Department of Parks and Recreation and the Department of Motor Vehicles. Adjustments shall be based on, but not limited to, the changes in the following factors since the 2006-07 fiscal year or the last adjustment, whichever is more recent:

(1) The number of vehicles registered as offhighway motor vehicles as required by Division 16.5 (commencing with Section 38000) of the Vehicle Code.

(2) The number of registered street-legal vehicles that are anticipated to be used off highway, including four-wheel drive vehicles, all-wheel drive vehicles, and dual-sport motorcycles.

(3) Attendance at the state vehicular recreation areas.

(4) Off-highway recreation use on federal lands as indicated by the United States Forest Service's National Visitor Use Monitoring and the United States Bureau of Land Management's Recreation Management Information System.

(c) It is the intent of the Legislature that transfers from the Motor Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund should reflect the full range of motorized vehicle use off highway for both motorized recreation and motorized off-road access to other recreation opportunities. Therefore, the Legislature finds that the fuel tax baseline established in subdivision (b), attributable to off-highway estimates of use as of the 2006-07 fiscal year, accounts for the three categories of vehicles that have been found over the years to be users of fuel for off-highway motorized recreation or motorized access to nonmotorized recreational pursuits. These three categories are registered off-highway motorized vehicles, registered street legal motorized vehicles used off highway, and unregistered off-highway motorized vehicles.

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

(e) In the 2014-15 fiscal year, the Department of Transportation, in consultation with the Department of Parks and Recreation and the Department of Motor Vehicles, shall undertake a study to determine the appropriate adjustment to the amount transferred pursuant to subdivision (b) and to update the estimate of the amount attributable to taxes imposed upon distributions of motor vehicle fuel used in the operation of motor vehicles off highway and for which a refund has not been claimed. The department shall provide a copy of this study to the Legislature no later than January 1, 2016.

## § 8352.8. Conservation and Enforcement Services Account

(a) The Conservation and Enforcement Services Account is hereby established as an account in the Off-Highway Vehicle Trust Fund created by Section 38225 of the Vehicle Code.

(b) Funds in the Conservation and Enforcement Services Account shall be allocated to the Division of Off-Highway Motor Vehicle Recreation of the Department of Parks and Recreation for expenditure, upon appropriation by the Legislature, for the following purposes:

(1) Up to the 40 percent of the funds, for cooperative agreements or challenge cost-sharing agreements with the United States Forest Service and the United States Bureau of Land Management, to complete necessary route designation planning work and to implement route planning decisions.

(2) Up to one million one hundred thousand dollars ($1,100,000) for each grant cycle, to increase the amount of funds available for restoration grants in the program pursuant to paragraph (2) of subdivision (b) of Section 5090.50 of the Public Resources Code.

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# CALIFORNIA VEHICLE CODE

## DIVISION 1. Words and Phrases Defined

### § 111. All-Terrain Vehicle

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

(a) Designed for operation off of the highway by an operator with no more than one passenger.

(b) Fifty inches or less in width.

(c) Nine hundred pounds or less unladen weight.

(d) Suspended on three or more low-pressure tires.

(e) Has a single seat designed to be straddled by the operator, or a single seat designed to be straddled by the operator and a seat for no more than one passenger.

(f) Has handlebars for steering control.

### § 111.3. All-Terrain Vehicle Safety Instructor

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

### § 111.5. All-Terrain Vehicle Safety Training Organization

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

### § 290. Department

"Department" means the Department of Motor Vehicles except, when used in Chapter 2 (commencing with Section 2100) of Division 2 and in Divisions 11 (commencing with Section 21000), 12 (commencing with Section 24000), 13 (commencing with Section

29000), 14 (commencing with Section 31600), 14.1 (commencing with Section 32000), 14.3 (commencing with Section 32100), 14.5 (commencing with Section 33000), 14.7 (commencing with Section 34000), and 14.8 (commencing with Section 34500), it shall mean the Department of the California Highway Patrol.

### § 360. Highway

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

### § 400. Motorcycle

(a) A "motorcycle" is a motor vehicle having a seat or saddle for the use of the rider, designed to travel on not more than three wheels in contact with the ground.

(b) A motor vehicle that has four wheels in contact with the ground, two of which are a functional part of a sidecar, is a motorcycle if the vehicle otherwise comes within the definition of subdivision (a).

(c) A farm tractor is not a motorcycle.

(d) A three-wheeled motor vehicle that otherwise meets the requirements of subdivision (a), has a partially or completely enclosed seating area for the driver and passenger, is used by local public agencies for the enforcement of parking control provisions, and is operated at slow speeds on public streets, is not a motorcycle. However, a motor vehicle described in this subdivision shall comply with the applicable sections of this code imposing equipment installation requirements on motorcycles.

### § 405. Motor-Driven Cycle

A "motor-driven cycle" is any motorcycle with a motor that displaces less than 150 cubic centimeters. A motor-driven cycle does not include a motorized bicycle, as defined in Section 406.

### § 406. Motorized Bicycle; Moped

(a) A "motorized bicycle" or "moped" is any two-wheeled or three-wheeled device having fully operative pedals for propulsion by human power, or having no pedals if powered solely by electrical energy, and an automatic transmission and a motor which produces less than 2 gross brake horsepower and is capable of propelling the device at a maximum speed of not more than 30 miles per hour on level ground.

(b) A "motorized bicycle" is also a device that has fully operative pedals for propulsion by human power and has an electric motor that meets all of the following requirements:

(1) Has a power output of not more than 1,000 watts.

(2) Is incapable of propelling the device at a speed of more than 20 miles per hour on ground level.

(3) Is incapable of further increasing the speed of the device when human power is used to propel the motorized bicycle faster than 20 miles per hour.

(4) Every manufacturer of motorized bicycles, as defined in this subdivision, shall provide a disclosure to buyers that advises buyers that their existing insurance policies may not provide coverage for these bicycles and that they should contact their insurance company or insurance agent to determine if coverage is provided.

(c) The disclosure required under paragraph (4) of subdivision (b) shall meet both of the following requirements:

(1) The disclosure shall be printed in not less than 14-point boldface type on a single sheet of paper that contains no information other than the disclosure.

(2) The disclosure shall include the following language in capital letters:

"YOUR INSURANCE POLICIES MAY NOT PROVIDE COVERAGE FOR ACCIDENTS INVOLVING THE USE OF THIS BICYCLE. TO DETERMINE IF COVERAGE IS PROVIDED YOU SHOULD CONTACT YOUR INSURANCE COMPANY OR AGENT."

## § 436. Off-Highway Motorcycle

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

## § 500. Recreational Off-Highway Vehicle

"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).

## § 527. Road

(a) "Road" means any existing vehicle route established before January 1, 1979, with significant evidence of prior regular travel by vehicles subject to registration pursuant to Article 1 (commencing with Section 4000) of Chapter 1 of Division 3; provided, that "road" does not mean any route traversed exclusively by bicycles as defined in Section 39001, motorcycles as defined in Section 400, motor-driven cycles as defined in Section 405, or off-highway motor vehicles as defined in Section 38012.

(b) Even though nature may alter or eliminate portions of an existing vehicle route, the route shall still be considered a road where there is evidence of periodic use.

(c) A vehicle route need not necessarily be a publicly or privately maintained surface to be a road, as defined, for purposes of this section. Nothing contained herein shall pertain to any property in an incorporated area or properties held in private ownership.

(d) This section is definitional only and nothing contained herein shall be deemed to affect, alter, create, or destroy any right, title, or interest in real property, including, but not limited to, any permit, license, or easement; nor shall this chapter be deemed to affect the liability, or lack thereof, of any owner of an interest of real property based upon the use, possession, or ownership of such interest in real property or the entry upon such property by any person.

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

## § 531. Utility-Terrain Vehicle

"Utility-terrain vehicle" means a motor vehicle subject to subdivision (a) of Section 38010 that is all of the following:

(a) Designed for operation off of the highway.

(b) Suspended on four tires.

(c) Has a steering wheel for steering control.

(d) Has one seat to accommodate a driver and one passenger sitting side by side.

### § 557. Snowmobile

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

### § 590. Street

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

### § 592. Street or Highway – Highway Exclusion

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

## DIVISION 2. Administration

## CHAPTER 1. The Department of Motor Vehicles

## ARTICLE 2. Powers and Duties

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

(a) Between January 1, 2004, and December 31, 2004, inclusive, the fee amounts set forth in Section 488.385 of the Code of Civil Procedure, Section 10902 of the Revenue and Taxation Code, and Sections 4604, 5014, 5036, 6700.25, 9102.5, 9250.8, 9250.13, 9252, 9254, 9258, 9261, 9265, 9702, 11515, 11515.2, 12814.5, 14900, 14900.1, 14901, 14902, 38121, 38225.4, 38225.5, 38232, 38255, 38260, and 38265 shall be the base fee amounts charged by the department.

(b) On January 1, 2005, and every January 1 thereafter, the department shall adjust the fees imposed under the sections listed in subdivision (a) by increasing each fee in an amount equal to the increase in the California Consumer Price Index for the prior year, as calculated by the Department of Finance, with amounts equal to or greater than fifty cents ($0.50) rounded to the next highest whole dollar.

(c) Any increases to the fees imposed under the sections listed in subdivision (a) that are enacted by legislation subsequent to January 1, 2005, shall be deemed to be changes to the base fee for purposes of the calculation performed pursuant to subdivision (b).

## DIVISION 3. Registration of Vehicles and Certificates of Title

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

## ARTICLE 1. Vehicles Subject to Registration

### § 4000. Registration Required

(a) (1) A person shall not drive, move, or leave standing upon a highway, or in an offstreet public parking facility, any motor vehicle, trailer, semitrailer, pole or pipe dolly, or logging dolly, unless it is registered and the appropriate fees have been paid under this code or registered under the permanent trailer identification program, except that an off-highway motor vehicle which displays an identification plate or device issued by the department pursuant to Section 38010 may be driven, moved, or left standing in an offstreet public parking facility without being registered or paying registration fees.

(2) For purposes of this subdivision, "offstreet public parking facility" means either of the following:

(A) Any publicly owned parking facility.

(B) Any privately owned parking facility for which no fee for the privilege to park is charged and which is held open for the common public use of retail customers.

(3) This subdivision does not apply to any motor vehicle stored in a privately owned offstreet parking facility by, or with the express permission of, the owner of the privately owned offstreet parking facility.

(4) Beginning July 1, 2011, the enforcement of paragraph (1) shall commence on the first day of the second month following the month of expiration of the vehicle's registration. This paragraph shall become inoperative on January 1, 2012.

(b) No person shall drive, move, or leave standing upon a highway any motor vehicle, as defined in Chapter 2 (commencing with Section 39010) of Part 1 of Division 26 of the Health and Safety Code, that has been registered in violation of Part 5 (commencing with Section 43000) of that Division 26 of the Health and Safety Code.

(c) Subdivisions (a) and (b) do not apply to off-highway motor vehicles operated pursuant to Sections 38025 and 38026.5.

(d) This section does not apply, following payment of fees due for registration, during the time that registration and transfer is being withheld by the department pending the investigation of any use tax due under the Revenue and Taxation Code.

(e) Subdivision (a) does not apply to a vehicle that is towed by a tow truck on the order of a sheriff, marshal, or other official acting pursuant to a court order or on the order of a peace officer acting pursuant to this code.

(f) Subdivision (a) applies to a vehicle that is towed from a highway or offstreet parking facility under the direction of a highway service organization when that organization is providing emergency roadside assistance to that vehicle. However, the operator of a tow truck providing that assistance to that vehicle is not responsible for the violation of subdivision (a) with respect to that vehicle. The owner of an unregistered vehicle that is disabled and located on private property, shall obtain a permit from the department pursuant to Section 4003 prior to having the vehicle towed on the highway.

(g) (1) Pursuant to Section 4022 and to subparagraph (B) of paragraph (3) of subdivision (o) of Section 22651, a vehicle obtained by a licensed repossessor as a release of collateral is exempt from registration pursuant to this section for purposes of the repossessor removing the vehicle to his or her storage facility or the facility of the legal owner. A law enforcement agency, impounding authority, tow yard, storage facility, or any other person in possession of the collateral shall release the vehicle without requiring current registration and pursuant to subdivision (f) of Section 14602.6.

(2) The legal owner of collateral shall, by operation of law and without requiring further action, indemnify and hold harmless a law enforcement agency, city, county, city and county, the state, a tow yard, storage facility, or an impounding yard from a claim arising out of the release of the collateral to a licensee, and from any damage to the collateral after its release, including reasonable attorney's fees and costs associated with defending a claim, if the collateral was released in compliance with this subdivision.

(h) For purposes of this section, possession of a California driver's license by the registered owner of a vehicle shall give rise to a rebuttable presumption that the owner is a resident of California.

## DIVISION 6. Drivers' Licenses

## CHAPTER 1. Issuance of Licenses, Expiration, and Renewal

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

### § 12501. Persons Exempt From Driver's License Requirement

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

(a) An officer or employee of the United States, while operating a motor vehicle owned or controlled by the United States on the business of the United States, except when the motor vehicle being operated is a commercial motor vehicle, as defined in Section 15210.

(b) Any person while driving or operating implements of husbandry incidentally operated or moved over a highway, except as provided in Section 36300 or 36305.

(c) Any person driving or operating an off-highway motor vehicle subject to identification, as defined in Section 38012, while driving or operating such motor vehicle as provided in Section 38025. Nothing in this subdivision authorizes operation of a motor vehicle by a person without a valid driver's license upon any offstreet parking facility, as defined in subdivision (c) of Section 12500.

## CHAPTER 4. Violation of License Provisions

### § 14601. Driving When Privilege Suspended or Revoked

(a) No person shall drive a motor vehicle at any time when that person's driving privilege is suspended or revoked for reckless driving in violation of Section 23103, 23104, or 23105, any reason listed in subdivision (a) or (c) of Section 12806 authorizing the department to refuse to issue a license, negligent or incompetent operation of a motor vehicle as prescribed in subdivision (e) of Section 12809, or negligent operation as prescribed in Section 12810.5, if the person so driving has knowledge of the suspension or revocation. Knowledge shall be conclusively presumed if mailed notice has been given by the department to the person pursuant to Section 13106. The presumption established by this subdivision is a presumption affecting the burden of proof.

(b) A person convicted under this section shall be punished as follows:

(1) Upon a first conviction, by imprisonment in a county jail for not less than five days or more than six months and by a fine of not less than three hundred dollars ($300) or more than one thousand dollars ($1,000).

(2) If the offense occurred within five years of a prior offense that resulted in a conviction of a violation of this section or Section 14601.1, 14601.2, or 14601.5, by imprisonment in a county jail for not less than 10 days or more than one year and by a fine of not less than five hundred dollars ($500) or more than two thousand dollars ($2,000).

(c) If the offense occurred within five years of a prior offense that resulted in a conviction of a violation of this section or Section 14601.1, 14601.2, or 14601.5, and is granted probation, the court shall impose as a condition of probation that the person be confined in a county jail for at least 10 days.

(d) Nothing in this section prohibits a person from driving a motor vehicle, that is owned or utilized by the person's employer, during the course of employment on private property which is owned or utilized by the employer, except an offstreet parking facility as defined in subdivision (c) of Section 12500.

(e) When the prosecution agrees to a plea of guilty or nolo contendere to a charge of a violation of this section in satisfaction of, or as a substitute for, an original charge of a violation of Section 14601.2, and the court accepts that plea, except, in the interest of justice, when the court finds it would be inappropriate, the court shall, pursuant to Section 23575, require the person convicted, in addition to any other requirements, to install a certified ignition interlock device on any vehicle that the person owns or operates for a period not to exceed three years.

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

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

(a) No person shall drive a motor vehicle when his or her driving privilege is suspended or revoked for any reason other than those listed in Section 14601, 14601.2, or 14601.5, if the person so driving has knowledge of the suspension or revocation. Knowledge shall be conclusively presumed if mailed notice has been given by the department to the person pursuant to Section 13106. The presumption established by this subdivision is a presumption affecting the burden of proof.

(b) Any person convicted under this section shall be punished as follows:

(1) Upon a first conviction, by imprisonment in the county jail for not more than six months or by a fine of not less than three hundred dollars ($300) or more than one thousand dollars ($1,000), or by both that fine and imprisonment.

(2) If the offense occurred within five years of a prior offense which resulted in a conviction of a violation of this section or Section 14601, 14601.2, or 14601.5,

by imprisonment in the county jail for not less than five days or more than one year and by a fine of not less than five hundred dollars ($500) or more than two thousand dollars ($2,000).

(c) Nothing in this section prohibits a person from driving a motor vehicle, which is owned or utilized by the person's employer, during the course of employment on private property which is owned or utilized by the employer, except an offstreet parking facility as defined in subdivision (d) of Section 12500.

(d) When the prosecution agrees to a plea of guilty or nolo contendere to a charge of a violation of this section in satisfaction of, or as a substitute for, an original charge of a violation of Section 14601.2, and the court accepts that plea, except, in the interest of justice, when the court finds it would be inappropriate, the court shall, pursuant to Section 23575, require the person convicted, in addition to any other requirements, to install a certified ignition interlock device on any vehicle that the person owns or operates for a period not to exceed three years.

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

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

(a) A person shall not drive a motor vehicle at any time when that person's driving privilege is suspended or revoked for a conviction of a violation of Section 23152 or 23153 if the person so driving has knowledge of the suspension or revocation.

(b) Except in full compliance with the restriction, a person shall not drive a motor vehicle at any time when that person's driving privilege is restricted if the person so driving has knowledge of the restriction.

(c) Knowledge of suspension or revocation of the driving privilege shall be conclusively presumed if mailed notice has been given by the department to the person pursuant to Section 13106. Knowledge of the restriction of the driving privilege shall be presumed if notice has been given by the court to the person. The presumption established by this subdivision is a presumption affecting the burden of proof.

(d) A person convicted of a violation of this section shall be punished as follows:

(1) Upon a first conviction, by imprisonment in the county jail for not less than 10 days or more than six months and by a fine of not less than three hundred dollars ($300) or more than one thousand dollars ($1,000), unless the person has been designated an habitual traffic offender under subdivision (b) of Section 23546, subdivision (b) of Section 23550, or subdivision (d) of Section 23550.5,

in which case the person, in addition, shall be sentenced as provided in paragraph (3) of subdivision (e) of Section 14601.3.

(2) If the offense occurred within five years of a prior offense that resulted in a conviction of a violation of this section or Section 14601, 14601.1, or 14601.5, by imprisonment in the county jail for not less than 30 days or more than one year and by a fine of not less than five hundred dollars ($500) or more than two thousand dollars ($2,000), unless the person has been designated an habitual traffic offender under subdivision (b) of Section 23546, subdivision (b) of Section 23550, or subdivision (d) of Section 23550.5, in which case the person, in addition, shall be sentenced as provided in paragraph (3) of subdivision (e) of Section 14601.3.

(e) If a person is convicted of a first offense under this section and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for at least 10 days.

(f) If the offense occurred within five years of a prior offense that resulted in a conviction of a violation of this section or Section 14601, 14601.1, or 14601.5 and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for at least 30 days.

(g) If a person is convicted of a second or subsequent offense that results in a conviction of this section within seven years, but over five years, of a prior offense that resulted in a conviction of a violation of this section or Section 14601, 14601.1, or 14601.5 and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for at least 10 days.

(h) Pursuant to Section 23575, the court shall require a person convicted of a violation of this section to install a certified ignition interlock device on a vehicle the person owns or operates. Upon receipt of the abstract of a conviction under this section, the department shall not reinstate the privilege to operate a motor vehicle until the department receives proof of either the "Verification of Installation" form as described in paragraph (2) of subdivision (g) of Section 13386 or the Judicial Council Form I.D. 100.

(i) Nothing in this section prohibits a person who is participating in, or has completed, an alcohol or drug rehabilitation program from driving a motor vehicle that is owned or utilized by the person's employer, during the course of employment on private property that is owned or utilized by the employer, except an offstreet parking facility as defined in subdivision (c) of Section 12500.

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

(k) If Section 23573 is applicable, then subdivision (h) is not applicable.

## § 14601.3. Habitual Traffic Offender

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

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

(1) Two or more convictions within a 12-month period of an offense given a violation point count of two pursuant to Section 12810.

(2) Three or more convictions within a 12-month period of an offense given a violation point count of one pursuant to Section 12810.

(3) Three or more accidents within a 12-month period that are subject to the reporting requirements of Section 16000.

(4) Any combination of convictions or accidents, as specified in paragraphs (1) to (3), inclusive, which results during any 12-month period in a violation point count of three or more pursuant to Section 12810.

(b) Knowledge of suspension or revocation of the driving privilege shall be conclusively presumed if mailed notice has been given by the department to the person pursuant to Section 13106. The presumption established by this subdivision is a presumption affecting the burden of proof.

(c) The department, within 30 days of receipt of a duly certified abstract of the record of any court or accident report which results in a person being designated an habitual traffic offender, may execute and transmit by mail a notice of that designation to the office of the district attorney having jurisdiction over the location of the person's last known address as contained in the department's records.

(d) (1) The district attorney, within 30 days of receiving the notice required in subdivision (c), shall inform the department of whether or not the person will be prosecuted for being an habitual traffic offender.

(2) Notwithstanding any other provision of this section, any habitual traffic offender designated under subdivision (b) of Section 23546, subdivision (b) of Section 23550, or subdivision (b) of Section 23550.5, who is convicted of violating Section 14601.2 shall be sentenced as provided in paragraph (3) of subdivision (e).

(e) Any person convicted under this section of being an habitual traffic offender shall be punished as follows:

(1) Upon a first conviction, by imprisonment in the county jail for 30 days and by a fine of one thousand dollars ($1,000).

(2) Upon a second or any subsequent offense within seven years of a prior conviction under this section, by imprisonment in the county jail for 180 days and by a fine of two thousand dollars ($2,000).

(3) Any habitual traffic offender designated under Section 193.7 of the Penal Code or under subdivision (b) of Section 23546, subdivision (b) of Section 23550, subdivision (b) of Section 23550.5, or subdivision (d) of Section 23566 who is convicted of a violation of Section 14601.2 shall be punished by imprisonment in the county jail for 180 days and by a fine of two thousand dollars ($2,000). The penalty in this paragraph shall be consecutive to that imposed for the violation of any other law.

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

## § 14601.4. Driving When Privilege Suspended or Revoked Causing Injury

(a) It is unlawful for a person, while driving a vehicle with a license suspended or revoked pursuant to Section 14601.2 to do an act forbidden by law or neglect a duty imposed by law in the driving of the vehicle, which act or neglect proximately causes bodily injury to a person other than the driver. In proving the person neglected a duty imposed by law in the driving of the vehicle, it is not necessary to prove that a specific section of this code was violated.

(b) A person convicted under this section shall be imprisoned in the county jail and shall not be released upon work release, community service, or other release program before the minimum period of imprisonment, prescribed in Section 14601.2, is served. If a person is convicted of that offense and is granted probation, the court shall require that the person convicted serve at least the minimum time of imprisonment, as specified in those sections, as a term or condition of probation.

(c) When the prosecution agrees to a plea of guilty or nolo contendere to a charge of a violation of this section in satisfaction of, or as a substitute for, an original charge of a violation of Section 14601.2, and the court accepts that plea, except, in the interest of justice, when the court finds it should be inappropriate, the court shall, pursuant to Section 23575, require the person convicted, in addition to other requirements, to install a certified ignition interlock device on a vehicle that the person owns or operates for a period not to exceed three years.

(d) This section also applies to the operation of an off-highway motor vehicle on those lands that the Chappie-Z'berg Off-Highway Motor Vehicle Law of 1971

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

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

(f) If Section 23573 is applicable, then subdivisions (c) and (e) are not applicable.

## § 14601.5. Driving on Suspended or Revoked License; Penalties

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

(b) Except in full compliance with the restriction, a person may not drive a motor vehicle at any time when that person's driving privilege is restricted pursuant to Section 13353.7 or 13353.8 and that person has knowledge of the restriction.

(c) Knowledge of suspension, revocation, or restriction of the driving privilege shall be conclusively presumed if notice has been given by the department to the person pursuant to Section 13106. The presumption established by this subdivision is a presumption affecting the burden of proof.

(d) A person convicted of a violation of this section is punishable, as follows:

(1) Upon a first conviction, by imprisonment in the county jail for not more than six months or by a fine of not less than three hundred dollars ($300) or more than one thousand dollars ($1,000), or by both that fine and imprisonment.

(2) If the offense occurred within five years of a prior offense that resulted in a conviction for a violation of this section or Section 14601, 14601.1, 14601.2, or 14601.3, by imprisonment in the county jail for not less than 10 days or more than one year, and by a fine of not less than five hundred dollars ($500) or more than two thousand dollars ($2,000).

(e) In imposing the minimum fine required by subdivision (d), the court shall take into consideration the defendant's ability to pay the fine and may, in the interest of justice, and for reasons stated in the record, reduce the amount of that minimum fine to less than the amount otherwise imposed.

(f) This section does not prohibit a person who is participating in, or has completed, an alcohol or drug rehabilitation program from driving a motor vehicle, that is owned or utilized by the person's employer, during the course of employment on private property that is owned or utilized by the employer, except an offstreet parking facility as defined in subdivision (c) of Section 12500.

(g) When the prosecution agrees to a plea of guilty or nolo contendere to a charge of a violation of this section in satisfaction of, or as a substitute for, an original charge of a violation of Section 14601.2, and the court accepts that plea, except, in the interest of justice, when the court finds it would be inappropriate, the court shall, pursuant to Section 23575, require the person convicted, in addition to other requirements, to install a certified ignition interlock device on a vehicle that the person owns or operates for a period not to exceed three years.

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

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

(j) If Section 23573 is applicable, then subdivisions (g) and (i) are not applicable.

## DIVISION 11. Rules of the Road

## CHAPTER 12. Public Offenses

## ARTICLE 1. Driving Offenses

### § 23123. Hand-Held Wireless Telephone: Prohibited Use

(a) A person shall not drive a motor vehicle while using a wireless telephone unless that telephone is specifically designed and configured to allow hands-free listening and talking, and is used in that manner while driving.

(b) A violation of this section is an infraction punishable by a base fine of twenty dollars ($20) for a first offense and fifty dollars ($50) for each subsequent offense.

(c) This section does not apply to a person using a wireless telephone for emergency purposes, including, but not limited to, an emergency call to a law enforcement agency, health care provider, fire department, or other emergency services agency or entity.

(d) This section does not apply to an emergency services professional using a wireless telephone while operating an authorized emergency vehicle, as defined in Section 165, in the course and scope of his or her duties.

(e) This section does not apply to a person driving a schoolbus or transit vehicle that is subject to Section 23125.

(f) This section does not apply to a person while driving a motor vehicle on private property.

(g) This section shall become operative on July 1, 2011.

### § 23123.5. Electronic Wireless Communications Device: Prohibited Use

(a) A person shall not drive a motor vehicle while using an electronic wireless communications device to write, send, or read a text-based communication, unless the electronic wireless communications device is specifically designed and configured to allow voice-operated and hands-free operation to dictate, send, or listen to a text-based communication, and it is used in that manner while driving.

(b) As used in this section "write, send, or read a text-based communication" means using an electronic wireless communications device to manually communicate with any person using a text-based communication, including, but not limited to, communications referred to as a text message, instant message, or electronic mail.

(c) For purposes of this section, a person shall not be deemed to be writing, reading, or sending a text-based communication if the person reads, selects, or enters a telephone number or name in an electronic wireless communications device for the purpose of making or receiving a telephone call or if a person otherwise activates or deactivates a feature or function on an electronic wireless communications device.

(d) A violation of this section is an infraction punishable by a base fine of twenty dollars ($20) for a first offense and fifty dollars ($50) for each subsequent offense.

(e) This section does not apply to an emergency services professional using an electronic wireless communications device while operating an authorized emergency vehicle, as defined in Section 165, in the course and scope of his or her duties.

## § 23124. Wireless Telephone Use: Prohibition: Persons Under 18

(a) This section applies to a person under the age of 18 years.

(b) Notwithstanding Sections 23123 and 23123.5, a person described in subdivision (a) shall not drive a motor vehicle while using a wireless telephone, or an electronic wireless communications devide, even if equipped with a hands-free device.

(c) A violation of this section is an infraction punishable by a base fine of twenty dollars ($20) for a first offense and fifty dollars ($50) for each subsequent offense.

(d) A law enforcement officer shall not stop a vehicle for the sole purpose of determining whether the driver is violating subdivision (b).

(e) Subdivision (d) does not prohibit a law enforcement officer from stopping a vehicle for a violation of Sections 23123 or 23123.5.

(f) This section does not apply to a person using a wireless telephone or a mobile service device for emergency purposes, including, but not limited to, an emergency call to a law enforcement agency, health care provider, fire department, or other emergency services agency or entity.

(g) For the purposes of this section, “electronic wireless communications device” includes, but is not limited to, a broadband personal communication device, specialized mobile radio device, handheld device or laptop computer with mobile data access, pager, and two-way messaging device.

## § 23128. Snowmobiles

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

(a) On a highway except as provided in Section 38025.

(b) In a careless or negligent manner so as to endanger a person or property.

(c) For the purpose of pursuing deer or other game mammal with intent to harass such animals.

(d) For the purpose of violating Section 602 of the Penal Code.

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

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

(a) Notwithstanding Sections 23152 and 23153, it is unlawful for a person under the age of 21 years who has a blood-alcohol concentration of 0.01 percent or greater, as measured by a preliminary alcohol screening test or other chemical test, to drive a vehicle. However, this section shall not be a bar to prosecution under Section 23152 or 23153 or any other provision of law.

(b) A person shall be found to be in violation of subdivision (a) if the person was, at the time of driving, under the age of 21 years, and the trier of fact finds that the person had consumed an alcoholic beverage and was driving a vehicle with a blood-alcohol concentration of 0.01 percent or greater, as measured by a preliminary alcohol screening test or other chemical test.

(c) (1) Any person under the age of 21 years who drives a motor vehicle is deemed to have given his or her consent to a preliminary alcohol screening test or other chemical test for the purpose of determining the presence of alcohol in the person, if lawfully detained for an alleged violation of subdivision (a).

(2) The testing shall be incidental to a lawful detention and administered at the direction of a peace officer having reasonable cause to believe the person was driving a motor vehicle in violation of subdivision (a).

(3) The person shall be told that his or her failure to submit to, or the failure to complete, a preliminary alcohol screening test or other chemical test as requested will result in the suspension or revocation of the person's privilege to operate a motor vehicle for a period of one year to three years, as provided in Section 13353.1.

## ARTICLE 1.5. Juvenile Offenses Involving Alcohol

### § 23140. Alcohol; Minor Driver

(a) It is unlawful for a person under the age of 21 years who has 0.05 percent or more, by weight, of alcohol in his or her blood to drive a vehicle.

(b) A person may be found to be in violation of subdivision (a) if the person was, at the time of driving, under the age of 21 years and under the influence of, or affected by, an alcoholic beverage regardless of whether a chemical test was made to determine that person's blood-alcohol concentration and if the trier of fact finds that the person had consumed an alcoholic beverage and was driving a vehicle while having a concentration of 0.05 percent or more, by weight, of alcohol in his or her blood.

(c) Notwithstanding any provision of law to the contrary, upon a finding that a person has violated this section, the clerk of the court, or judge if there is no clerk, shall prepare within 10 days after the finding and immediately forward to the department an abstract of the record of the court in which the finding is made. That abstract shall be a public record and available for public inspection in the same manner as other records reported under Section 1803.

## ARTICLE 2. Offenses Involving Alcohol and Drugs

### § 23152. DUI

(a) It is unlawful for a person who is under the influence of any alcoholic beverage to drive a vehicle.

(b) It is unlawful for a person who has 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle.

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

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

(c) It is unlawful for a person who is addicted to the use of any drug to drive a vehicle. This subdivision shall not apply to a person who is participating in a narcotic treatment program approved pursuant to Article 3 (commencing with Section 11875) of Chapter 1 of Part 3 of Division 10.5 of the Health and Safety Code.

(d) It is unlawful for any person who has 0.04 percent or more, by weight, of alcohol in his or her blood to drive a commercial motor vehicle, as defined in Section 15210.

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

his or her blood at the time of the performance of a chemical test within three hours after the driving.

(e) It is unlawful for a person who is under the influence of any drug to drive a vehicle.

(f) It is unlawful for a person who is under the combined influence of any alcoholic beverage and drug to drive a vehicle.

(g) This section shall become operative on January 1, 2014.

## § 23153. DUI Causing Injury

(a) It is unlawful for a person, while under the influence of any alcoholic beverage to drive a vehicle and concurrently do any act forbidden by law, or neglect any duty imposed by law in driving the vehicle, which act or neglect proximately causes bodily injury to any person other than the driver.

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

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

(c) In proving the person neglected any duty imposed by law in driving the vehicle, it is not necessary to prove that any specific section of this code was violated.

(d) It is unlawful for any person, while having 0.04 percent or more, by weight, of alcohol in his or her blood to drive a commercial motor vehicle, as defined in Section 15210, and concurrently to do any act forbidden by law or neglect any duty imposed by law in driving the vehicle, which act or neglect proximately causes bodily injury to any person other than the driver.

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

(e) It is unlawful for a person, while under the influence of any drug, to drive a vehicle and concurrently do any act forbidden by law, or neglect any duty imposed by law in driving the vehicle, which act or neglect proximately causes bodily injury to any person other than the driver.

(f) It is unlawful for a person, while under the combined influence of any alcoholic beverage and drug, to drive a vehicle and concurrently do any act forbidden by law, or neglect any duty imposed by law in driving the vehicle, which act or neglect proximately causes bodily injury to any person other than the driver.

(g) This section shall become operative on January 1, 2014.

### § 23215. CHP Enforcement Off the Highway

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

### § 23220. Drinking While Driving

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

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

### § 23222. Possession of Marijuana or Open Container While Driving

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

(b) Except as authorized by law, every person who possesses, while driving a motor vehicle upon a highway or on lands, as described in subdivision (b) of Section 23220, not more than one avoirdupois ounce of marijuana, other than concentrated cannabis as defined by Section 11006.5 of the Health and Safety Code, is guilty of an infraction punishable by a fine of not more than one hundred dollars ($100).

### § 23223. Possession of Open Container in Motor Vehicle

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

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

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

(a) No person under the age of 21 years shall knowingly drive any motor vehicle carrying any alcoholic beverage, unless the person is accompanied by a parent, responsible adult relative, any other adult designated by the parent, or legal guardian for the purpose of transportation of an alcoholic beverage, or is employed by a licensee under the Alcoholic Beverage Control Act (Division 9 (commencing with Section 23000) of the Business and Professions Code), and is driving the motor vehicle during regular hours and in the course of the person's employment. If the driver was unaccompanied, he or she shall have a complete defense if he or she was following, in a timely manner, the reasonable instructions of his or her parent, legal guardian, responsible adult relative, or adult designee relating to disposition of the alcoholic beverage.

(b) No passenger in any motor vehicle who is under the age of 21 years shall knowingly possess or have under that person's control any alcoholic beverage, unless the passenger is accompanied by a parent, legal guardian, responsible adult relative, any other adult designated by the parent, or legal guardian for the purpose of transportation of an alcoholic beverage, or is employed by a licensee under the Alcoholic Beverage Control Act (Division 9 (commencing with Section 23000) of the Business and Professions Code), and possession or control is during regular hours and in the course of the passenger's employment. If the passenger was unaccompanied, he or she shall have a complete defense if he or she was following, in a timely manner, the reasonable instructions of his or her parent, legal guardian, responsible adult relative or adult designee relating to disposition of the alcoholic beverage.

(c) If the vehicle used in any violation of subdivision (a) or (b) is registered to an offender who is under the age of 21 years, the vehicle may be impounded at the owner's expense for not less than one day nor more than 30 days for each violation.

(d) Any person under 21 years of age convicted of a violation of this section is subject to Section 13202.5.

(e) Any person convicted for a violation of subdivision (a) or (b) is guilty of a misdemeanor and shall be punished upon conviction by a fine of not more than one thousand dollars ($1,000) or by imprisonment in the county jail for not more than six months, or by both that fine and imprisonment.

## § 23225. Storage of Opened Container

(a) (1) It is unlawful for the registered owner of any motor vehicle to keep in a motor vehicle, when the vehicle is upon any highway or on lands, as described in subdivision (b) of Section 23220, any bottle, can, or other receptacle containing any alcoholic beverage that has been opened, or a seal broken, or the contents of which have been partially removed, unless the container is kept in the trunk of the vehicle.

(2) If the vehicle is not equipped with a trunk and is not an off-highway motor vehicle subject to identification, as defined in Section 38012, the bottle, can, or other receptacle described in paragraph (1) shall be kept in some other area of the vehicle that is not normally occupied by the driver or passengers. For the purposes of this paragraph, a utility compartment or glove compartment shall be deemed to be within the area occupied by the driver and passengers.

(3) If the vehicle is not equipped with a trunk and is an off-highway motor vehicle subject to identification, as defined in subdivision (a) of Section 38012, the bottle, can, or other receptacle described in paragraph (1) shall be kept in a locked container. As used in this paragraph, "locked container" means a secure container that is fully enclosed and locked by a padlock, key lock, combination lock, or similar locking device.

(b) Subdivision (a) is also applicable to a driver of a motor vehicle if the registered owner is not present in the vehicle.

(c) This section shall not apply to the living quarters of a housecar or camper.

## § 23226. Storage of Opened Container in Passenger Compartment

(a) It is unlawful for any driver to keep in the passenger compartment of a motor vehicle, when the vehicle is upon any highway or on lands, as described in subdivision (b) of Section 23220, any bottle, can, or other receptacle containing any alcoholic beverage that has been opened, or a seal broken, or the contents of which have been partially removed.

(b) It is unlawful for any passenger to keep in the passenger compartment of a motor vehicle, when the vehicle is upon any highway or on lands, as described in subdivision (b) of Section 23220, any bottle, can, or other receptacle containing any alcoholic beverage that has been opened or a seal broken, or the contents of which have been partially removed.

(c) This section shall not apply to the living quarters of a housecar or camper.

# DIVISION 16.5. Off-Highway Vehicles

## CHAPTER 1. General Provisions

### § 38000. Name of Law

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

### § 38001. Applicability of Provisions

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

(b) Privately owned and maintained parking facilities that are generally open to the public are exempt from this division, unless the facilities are specifically declared subject to this division by the procedure specified in Section 21107.8[9]

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[9] § 21107.8. (a) Any city or county may, by ordinance or resolution, find and declare that there are privately owned and maintained offstreet parking facilities as described in the ordinance or resolution within the city or county that are generally held open for use of the public for purposes of vehicular parking. Upon enactment by a city or county of the ordinance or resolution, Sections 22350, 23103, and 23109 and the provisions of Division 16.5 (commencing with Section 38000) shall apply to privately owned and maintained offstreet parking facilities, except as provided in subdivision (b).

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

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

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

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

### § 38006. Off-Highway Motor Vehicle Defined

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

(a) A motor vehicle subject to the provisions of subdivision (a) of Section 38010.

(b) A motor vehicle registered under Section 4000, when such motor vehicle is operated on land to which this division has application.

(c) A motor vehicle owned or operated by a nonresident of this state, whether or not such motor vehicle is identified or registered in a foreign jurisdiction, when such motor vehicle is operated on lands to which this division has application.

### § 38007. Course of Instruction

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

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

## ARTICLE 1. Motor Vehicles Subject to Identification

### § 38010. Issuance and Display of Identification Plates

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

(b) Subdivision (a) does not apply to any of the following:

(1) Motor vehicles specifically exempted from registration under this code, including, but not limited to, motor vehicles exempted pursuant to Sections 4006, 4010, 4012, 4013, 4015, 4018, and 4019.

(2) Implements of husbandry.

(3) Motor vehicles owned by the state, or any county, city, district, or political subdivision of the state, or the United States.

(4) Motor vehicles owned or operated by, or operated under contract with a utility, whether privately or publicly owned, when used as specified in Section 22512.

(5) Special construction equipment described in Section 565, regardless of whether those motor vehicles are used in connection with highway or railroad work.

(6) A motor vehicle with a currently valid special permit issued under Section 38087.5 that is owned or operated by a nonresident of this state and the vehicle is not identified or registered in a foreign jurisdiction. For the purposes of this paragraph, a person who holds a valid driver's license issued by a foreign jurisdiction is presumed to be a nonresident.

(7) Commercial vehicles weighing more than 6,000 pounds unladen.

(8) Any motorcycle manufactured in the year 1942 or prior.

(9) Four-wheeled motor vehicles operated solely in organized racing or competitive events upon a closed course when those events are conducted under the auspices of a recognized sanctioning body or by permit issued by the local governmental authority having jurisdiction.

(10) A motor vehicle with a currently valid identification or registration permit issued by another state.

**§ 38012. Definitions**

(a) As used in this division, "off-highway motor vehicle subject to identification" means a motor vehicle subject to 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.

## § 38013. Identification, Identification Certificate Defined

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

## § 38014. Closed Course Defined

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

## § 38020. Identification Required

Except as otherwise provided in this division, a person shall not operate or leave standing an off-highway motor vehicle subject to identification under this code that is not registered under the provisions of Division 3 (commencing with Section 4000), unless it is identified under the provisions of this chapter. A violation of this section is an infraction. Riding in violation of seasons established by Section 2412(f) and 2415 of Title 13 of the California Code of Regulations constitutes a violation of this section. This section shall not apply to the operation, transportation, or leaving standing of an off-highway vehicle pursuant to a valid special permit.

## § 38021. Exemption: Special Permit

(a) A manufacturer, dealer, or distributor, or his agent, owning or lawfully possessing any off-highway motor vehicle of a type otherwise required to be identified hereunder may operate or use such vehicle without an identification certificate and plate or device upon condition that each such vehicle is accompanied by a special permit issued to the manufacturer, dealer, or distributor as provided in this division.

(b) Persons licensed pursuant to Article 1 (commencing with Section 11700) of Chapter 4 of Division 5 need not obtain such a permit provided the vehicle is operated or used under special plates issued to the licensee.

## § 38022. Motorcycles: Transportation on Highway

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

## § 38025. Operation on Highway

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

(a) On a two-lane highway, only to cross the highway at an angle of approximately 90 degrees to the direction of the roadway and at a place where a quick and safe crossing may be made, or only when the roadway is not maintained by snow removal equipment and is closed to motor vehicles that are subject to registration pursuant to Division 3 (commencing with Section 4000), or only to cross a highway in the manner specified in subdivision (b).

(b) With respect to the crossing of a highway having more than two lanes, or a highway having limited access, a motor vehicle may cross a highway but only at a place designated by the Department of Transportation or local authorities with respect to a highway under their respective jurisdictions as a place where a motor vehicle, or specified types of motor vehicle, may cross a highway, and a vehicle shall cross the highway only at that designated place and only in a quick and safe manner.

(c) The Department of Transportation and local authorities with respect to a highway under their respective jurisdictions may designate, by the erection of an appropriate sign of a type approved by the Department of Transportation, a place where a motor vehicle, or specified type of motor vehicle, may cross a highway having more than two lanes or having limited access.

(d) A motor vehicle identified pursuant to Section 38010 may be towed upon a highway, but not driven, if the vehicle displays a plate or device issued pursuant to Section 38160.

(e) A motorcycle identified pursuant to Section 38010 may be pushed upon a highway, but not ridden, if the motorcycle has displayed upon it a plate or device issued pursuant to Section 38160.

(f) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may operate or drive an off-highway vehicle identified pursuant to Section 38010 upon a highway in an emergency response situation.

## § 38026. Designating Highways: Combined Use

(a) In addition to Section 38025 and after complying with subdivision (c) of this section, if a local authority, an agency of the federal government, or the Director of Parks and Recreation finds that a highway, or a portion of a highway, under the jurisdiction of the authority, agency, or the director, as the case may be, is located in a manner that provides a connecting link between off-highway motor vehicle trail segments, between an off-highway motor vehicle recreational use area and necessary service

facilities, or between lodging facilities and an off-highway motor vehicle recreational facility and if it is found that the highway is designed and constructed so as to safely permit the use of regular vehicular traffic and also the driving of off-highway motor vehicles on that highway, the local authority, by resolution or ordinance, agency of the federal government, or the Director of Parks and Recreation, as the case may be, may designate that highway, or a portion of a highway, for combined use and shall prescribe rules and regulations therefor. A highway, or portion of a highway shall not be so designated for a distance of more than three miles, except as provided in Section 38026.1. A freeway shall not be designated under this section.

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

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

(d) (1) A designation of a highway, or a portion of a highway, under subdivision (a) shall become effective upon the erection of appropriate signs of a type approved by the Department of Transportation on and along the highway, or portion of the highway.

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

### 38026.1. County of Inyo: Designating Highways: Off-Highway Motor Vehicles

(a) Except as provided in subdivision (e), the County of Inyo may establish a pilot project to designate combined-use highways on unincorporated county roads in the county for no more than 10 miles so that the combined-use highways can be used to link existing off-highway motor vehicle trails and trailheads on federal Bureau of Land Management or United States Forest Service lands, and to link off-highway motor vehicle recreational-use areas with necessary service and lodging facilities, in order to provide a unified system of trails for off-highway motor vehicles, preserve traffic safety, improve natural resource protection, reduce off-highway vehicle trespass on private land, and minimize impacts on county residents.

(b) The pilot project shall do all of the following:

(1) Prescribe a procedure for highway, road, or route selection and designation. The procedure shall be approved by a vote of a majority of the Inyo County Board of Supervisors.

(2) Prescribe a procedure for the county to remove a combined-use designation, including a designation that is removed as a result of the conclusion of the pilot program.

(3) In cooperation with the Department of Transportation, establish uniform specifications and symbols for signs, markers, and traffic control devices to control off-highway motor vehicles, including, but not limited to, the following:

(A) Devices to warn of dangerous conditions, obstacles, or hazards.

(B) Designations of the right-of-way for regular vehicular traffic and off-highway motor vehicles.

(C) A description of the nature and destination of the off-highway motor vehicle trail.

(D) Warning signs for pedestrians and motorists of the presence of off-highway motor vehicle traffic.

(4) Require that off-highway motor vehicles subject to the pilot project meet the safety requirements of federal and state law regarding proper drivers' licensing, helmet usage, and the requirements pursuant to Section 38026.5.

(5) Prohibit off-highway motor vehicles from traveling faster than 35 miles per hour on highways designated under this section.

(6) Include an opportunity for public comment at a public hearing held by the county in order to evaluate the pilot project.

(c) The pilot project may include use of a state highway, subject to the approval of the Department of Transportation, or any crossing of a highway designated pursuant to Section 38025.

(d) (1) By selecting and designating a highway for combined use pursuant to this section, the County of Inyo agrees to defend and indemnify the state against any and all claims, including legal defense and liability arising from a claim, for any safety-related losses or injuries arising or resulting from use by off-highway motor vehicles of a highway designated as a combined-use highway by the Inyo County Board of Supervisors pursuant to this section.

(2) This subdivision does not alter the requirements of subdivision (e).

(e) The County of Inyo shall not designate a highway for combined use pursuant to this section unless the Commissioner of the Department of the California Highway Patrol finds that designating the highway for combined use would not create a potential traffic safety hazard.

(f) Not later than January 1, 2016, the County of Inyo, in consultation with the Department of the California Highway Patrol, the Department of Transportation, and the Department of Parks and Recreation, shall prepare and submit to the Legislature a report evaluating the pilot project, and containing both of the following:

(1) A description of the road segments designated to allow combined use for over three miles, as approved or adopted by a majority vote of the members of the Inyo County Board of Supervisors.

(2) An evaluation of the overall safety and effectiveness of the pilot project, including its impact on traffic flows, safety, off-highway vehicle usage on existing trails, incursions into areas not designated for off-highway vehicle usage, and nonmotorized recreation.

(3) A description of the public comments received at a public hearing held by the county in regards to an evaluation of the pilot project.

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

(2) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

## § 38026.5. Operation on Designated Highways

(a) In accordance with subdivision (c) of Section 4000, a motor vehicle issued a plate or device pursuant to Section 38160 may be operated or driven on a local highway, or a portion of the local highway, that is designated pursuant to Section 38026 or 38026.1 if the operation is in conformance with this code and the vehicle complies with off-highway vehicle equipment requirements specified in this division.

(b) Notwithstanding subdivision (a), it is unlawful for a person using an off-highway vehicle on a combined-use highway to do any of the following:

(1) Operate an off-highway motor vehicle on the highway during the hours of darkness.

(2) Operate a vehicle on the highway that does not have an operational stoplight.

(3) Operate a vehicle on the highway that does not have rubber tires.

(4) Operate a vehicle without a valid driver's license of the appropriate class for the vehicle operation in possession.

(5) Operate a vehicle on the highway without complying with the provisions of Article 2 (commencing with Section 16020) of Chapter 1 of Division 7.

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

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

### § 38030. Off-Highway Vehicles Delivered to Dealer

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

## ARTICLE 2. Original Identification

### § 38040. Application for Identification: Other Than a Motorcycle

Application for the original identification of a motor vehicle, other than a motorcycle, required to be identified pursuant to this division shall be made by the owner to the department upon the appropriate form furnished by it and shall contain all of the following:

(a) The true, full name, business or residence and mailing address, and the driver's license or identification card number, if any, of the owner and the legal owner, if any.

(b) The name of the county in which the owner resides.

(c) A description of the vehicle, including the following, insofar as it may exist:

(1) The make, model, and type of body.

(2) The vehicle identification number or any other number as may be required by the department.

(d) Information as may reasonably be required by the department to enable it to determine whether the vehicle is lawfully entitled to identification.

### § 38041. Application for Identification: Motorcycle

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

(a) The true, full name, business or residence and mailing address, and the driver's license or identification card number, if any, of the owner and the legal owner, if any.

(b) The name of the county in which the owner resides.

(c) A description of the motorcycle including the following data insofar as it may exist:

(1) The make and type of body.

(2) The motor and frame numbers recorded exactly as stamped on the engine and frame, respectively, by the manufacturer, and any other identifying number of the motorcycle as may be required by the department.

(3) The date first sold by a manufacturer or dealer to a consumer.

(d) Such information as may reasonably be required by the department to enable it to determine whether the vehicle is lawfully entitled to identification.

(e) The department shall maintain a cross-index file of motor and frame numbers identified with it.

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

### § 38045. Co-Ownership of Off-Highway Vehicle

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

(a) A vehicle may be identified in the names of two (or more) persons as coowners in the alternative by the use of the word “or.” A vehicle so identified in the alternative shall be deemed to be held in joint tenancy. Each coowner shall be deemed to have granted to the other coowners the absolute right to dispose of the title and interest in the vehicle. Upon the death of a coowner, the interest of the decedent shall pass to

the survivor as though title or interest in the vehicle was held in joint tenancy, unless a contrary intention is set forth in writing upon the application for identification.

(b) A vehicle may be identified in the names of two (or more) persons as coowners in the alternative by the use of the word "or" and if declared in writing upon the application for identification by the applicants to be community property, or tenancy in common, shall grant to each coowner the absolute power to transfer the title or interest of the other coowners only during the lifetime of such coowners.

(c) A vehicle may be identified in the names of two (or more) persons as coowners in the conjunctive by the use of the word "and" and shall thereafter require the signature of each coowner or his personal representative to transfer title to the vehicle, except where title to the vehicle is set forth in joint tenancy, the signature of each coowner or his personal representative shall be required only during the lifetime of the coowners, and upon death of a coowner title shall pass to the surviving coowner.

(d) The department may adopt suitable abbreviations to appear upon the certificate of identification and certificate of ownership to designate the manner in which title to the vehicle is held if set forth by the coowners upon the application for identification.

### § 38050. Undertaking or Bond

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

### § 38055. Return and Surrender of Undertaking or Bond

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

### § 38060. Change of Address

(a) Whenever any person, after making application for identification of an off-highway motor vehicle subject to identification, or after the identification either as owner or legal owner, moves or acquires a new address different from the address shown in the application or upon the certificate of ownership or identification certificate, that person shall, within 10 days thereafter, notify the department of his or her old and new addresses.

(b) Any owner having notified the department as required in subdivision (a), shall immediately mark out the former on the face of the certificate and write with pen and ink or type the new on the face of the certificate immediately below the former address and initial the entry.

## ARTICLE 3. Evidences of Identification

### § 38070. Issuance of Certificate of Ownership and Identification Certificate

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

### § 38075. Contents of Identification Certificate

(a) The identification certificate shall contain upon the face thereof the date issued, the name and residence or business or mailing address of the owner and of the legal owner, if any, the identification number to the vehicle, and a description of the vehicle as complete as that required in the application for the identification of a vehicle.

(b) The director may modify the form, arrangement, and information appearing on the face of the identification certificate and may provide for standardization and abbreviation of fictitious or firm names thereon whenever he finds that the efficiency of the department will be promoted thereby, except that general delivery or post office box numbers shall not be permitted as the address of the identified owner unless there is no other address.

### § 38076. Contents of Certificate of Ownership

The certificate of ownership shall contain:

(a) Not less than the information required upon the face of the identification certificate.

(b) Provision for notice to the department of a transfer of the title or interest of the owner or legal owner.

(c) Provision for application for transfer of identification by the transferee.

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

(a) The department may authorize, under Section 4456, dealers licensed under Article 1 (commencing with Section 11700) of Chapter 4 of Division 5 to use numbered copies of the report-of-sale form and corresponding temporary identification devices upon off-highway motor vehicles subject to identification that they sell.

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

### § 38085. Identification Certificate Kept with Vehicle

(a) Every owner upon receipt of an identification certificate shall maintain the same or a facsimile copy thereof with the vehicle for which it is issued at all times when the vehicle is operated or transported.

(b) The provisions of this section do not apply when an identification certificate is removed from the vehicle for the purpose of application for renewal or transfer of identification.

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

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

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

### § 38087.5. Special Permits for Nonresidents

(a) Upon payment of the fee specified in Section 38231.5, the Department of Parks and Recreation may issue to a nonresident of this state a special permit to operate an off-highway motor vehicle otherwise required to be identified under this chapter.

(b) Special permits issued under this section shall expire on December 31 in the year of their issuance.

## § 38088. Motorcycle Used in Racing

(a) Upon payment of the fee specified in Section 38232, the department shall issue to the owner of a motorcycle, which the owner has certified as being used exclusively in racing events on a closed course, a special transportation identification device for the purpose of identifying the motorcycle while it is being transported upon a highway to and from racing events on a closed course. Such device may be either a plate or a sticker, whichever is determined by the department to be the most appropriate.

(b) Such device is nonrenewable, nontransferrable, and becomes invalid when the vehicle for which it was issued is sold or dismantled.

(c) A certificate of ownership may not be issued in conjunction with a special transportation identification device.

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

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

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

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

## § 38100. Applicability of Registration Provisions

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

## ARTICLE 4. Renewal of Identification

### § 38110. Certificates of Ownership

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

### § 38115. Expiration Date

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

### § 38120. Application for Renewal

(a) Application for renewal of identification of off-highway motor vehicles subject to identification shall be made by the owner not later than midnight of the 30th day of June of the expiration year. The application shall contain the true, full name and driver's license or identification card number, if any, of the owner.

(b) Whenever any application for identification or transfer of ownership of an off-highway motor vehicle subject to identification is filed with the department between June 1 and June 30 of the year of expiration, the application shall be accompanied by the full renewal fees in addition to any other fees then due and payable.

(c) Whenever an application for identification or transfer of ownership of an off-highway motor vehicle subject to identification is filed with the department between January 1 and May 31 of the year of expiration, the application may be accompanied by full renewal fees in addition to any other fees then due and payable, which renewal fees shall be for the two-year period following June 30th of the year in which paid.

### § 38121. Certification of Nonoperation

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

(b) Each certification of nonoperation filed pursuant to subdivision (a) shall be accompanied by a filing fee of fifteen dollars ($15).

(c) An application for renewal of identification, whether or not accompanied by an application for transfer of title to, or any interest in, the vehicle, shall be submitted to the department with payment of the required fees for the current identification period and without penalty for delinquent payment of fees imposed under this code if the department receives the application on or before the date the vehicle is first operated, used, or transported on public property or private property in a manner so as to subject the vehicle to identification and certification of nonoperation required pursuant to subdivision (a).

(d) A certification of nonoperation is not required to be filed pursuant to subdivision (a) for a vehicle on which the identification expires while being held as inventory by a dealer or lessor-retailer.

### § 38125. Stolen or Embezzled Vehicles

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

### § 38130. Operation Pending Renewal

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

### § 38135. Validation of Certificate

The department may, upon renewing of an identification of off-highway motor vehicles subject to identification, issue a new identification certificate or may endorse or authorize the endorsement of a receipt or validation upon payment of the required fees. The receipt or validation to be stamped upon the identification certificate last issued for the vehicle during the preceding period, or upon a potential identification certificate issued near the close of the preceding period, which identification certificate so endorsed or validated

shall constitute the identification certificate for the ensuing two-year period. If the identification certificate and potential identification certificate are unavailable, a fee as specified in Section 38260 shall not be paid.

## ARTICLE 5. Refusal of Identification

### § 38145. Grounds Requiring Refusal of Identification

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

(a) That the application contains any false or fraudulent statement.

(b) That the required fee has not been paid.

### § 38150. Grounds Permitting Refusal of Identification

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

(a) If the department is satisfied that the applicant is not entitled thereto under this code.

(b) If the applicant has failed to furnish the department with information required in the application or reasonable additional information required by the department.

(c) If the department determines that the applicant has made or permitted unlawful use of any identification certificate, certificate of ownership, identification plates, or other identifying indicia.

## ARTICLE 6. Identification Plate or Device

### § 38160. Issuance of Identification Plates

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

## § 38165. Design of Identification Plates

(a) The department shall determine the size, color, and letters or number of the plate or device issued pursuant to this division and the life of the series of plate or device issued, but in no event less than six years. The design of the plate or device shall have the identification number as the most prominent feature of the device. During the intervening identification periods for which the plate or device is issued, the department shall issue a tab, sticker, or other suitable device to indicate the term for which such plate or device will be valid.

(b) On or before July 1, 2009, the department, in conjunction with the Division of Off-Highway Motor Vehicle Recreation of the Department of Parks and Recreation, shall report to the Assembly Committee on Water, Parks and Wildlife and the Senate Committee on Natural Resources and Water, regarding recommendations to improve the identification of off-highway motor vehicles. At a minimum, the report shall examine the benefits and challenges of all of the following:

(1) Using multiple identification stickers for each vehicle.

(2) Using large-print identifying numbers or letters.

(3) Various identifying devices, such as license plates and stickers.

(4) Requiring license plates or other device alternatives for certain off-highway vehicle types.

(5) Including a unique number for special nonresident permits issued under Section 38087.5.

(c) In preparing the report, the department and the Division of Off-Highway Motor Vehicle Recreation shall work with vehicle manufacturers to evaluate feasibility.

## § 38170. Display of Identification Plates

(a) Every off-highway motor vehicle subject to identification shall have displayed upon it the identification number assigned to the vehicle for which it is issued, together with the word “California” or the abbreviation “CAL” and the year number for which it is issued or a suitable device issued by the department for validation purposes, which device shall contain the year for which it is issued.

(b) The identification plate or device shall at all times be securely fastened to the vehicle for which it is issued and shall be mounted or affixed in a position to be clearly visible, and shall be maintained in a condition so as to be clearly legible. No covering shall be used on the identification plate or device.

(c) All identification plates or devices issued on or after January 1, 1996, shall be displayed as follows:

(1) On the left fork leg of a motorcycle, either horizontal or vertical, and shall be visible from the left side of the motorcycle.

(2) On the left quadrant of the metal frame member of sand rails, rail-type buggies, and dune buggies, visible from the rear of the vehicle.

(3) On the left rear quadrant on permanent plastic or metal frame members of all-terrain vehicles, visible to outside inspections.

(4) On the left tunnel on the back quadrant of snowmobiles.

## ARTICLE 7. Dismantling of Off-Highway Motor Vehicles

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

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

### § 38185. Subsequent Identification of Previously Dismantled or Salvaged Vehicles

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

## ARTICLE 8. Transfers of Title or Interest

### § 38195. Transfer of Title to Off-Highway Vehicles

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

### § 38200. Notice of Transfer by Dealers

(a) Every licensed dealer upon transferring by sale, lease, or otherwise any off-highway motor vehicle subject to identification, whether new or used, of a type subject to identification under this division, shall, not later than the end of the fifth calendar day thereafter, not counting the day of sale, lease, or other transfer, give written notice of the transfer to the department upon an appropriate form provided by it; but a dealer

need not give the notice when selling or transferring a new unidentified off-highway motor vehicle subject to identification to another dealer.

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

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

## § 38205. Application for Transfer

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

## § 38210. Notice of Transfer to Dealer Not Required

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

## § 38211. Payment of Use Tax

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

under the provisions of the Sales and Use Tax Law for a refund of the amount so paid.

(b) The department shall transmit to the State Board of Equalization all collections of use tax and penalty made under this section. This transmittal shall be made at least monthly, accompanied by a schedule in such form as the department and board may prescribe.

(c) The State Board of Equalization shall reimburse the department for its costs incurred in carrying out the provisions of this section. Such reimbursement shall be effected under agreement between the agencies, approved by the Department of Finance.

(d) In computing any use tax or penalty thereon under the provisions of this section dollar fractions shall be disregarded in the manner specified in Section 9559 of this code. Payment of tax and penalty on this basis shall be deemed full compliance with the requirements of the Sales and Use Tax Law insofar as they are applicable to the use of vehicles to which this section relates.

## ARTICLE 9. Identification Fees

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

(a) A service fee of seven dollars ($7) shall be paid to the department for the issuance or renewal of identification of off-highway motor vehicles subject to identification, except as expressly exempted under this division.

(b) In addition to the service fee required by subdivision (a), a special fee of thirty-three dollars ($33) shall be paid at the time of payment of the service fee for the issuance or renewal of an identification plate or device.

(c) All money transferred pursuant to Section 8352.6 of the Revenue and Taxation Code, all fees received by the department pursuant to subdivision (b), and all day use, overnight use, or annual or biennial use fees for state vehicular recreation areas received by the Department of Parks and Recreation shall be deposited in the Off-Highway Vehicle Trust Fund, which is hereby created. There shall be a separate reporting of special fee revenues by vehicle type, including four-wheeled vehicles, all-terrain vehicles, motorcycles, and snowmobiles. All money shall be deposited in the fund, and, upon appropriation by the Legislature, shall be allocated according to Section 5090.61 of the Public Resources Code.

(d) Any money temporarily transferred by the Legislature from the Off-Highway Vehicle Trust Fund to the General Fund shall be reimbursed, without interest, by the Legislature within two fiscal years of the transfer.

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

### § 38225.4. Additional Service Fee

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

### § 38225.5. Additional Service Fee

In addition to the service fees specified in Section 38225, a fee of three dollars ($3) shall be paid at the time of issuance or renewal of identification of off-highway vehicles subject to identification, except as expressly exempted under this division. The department shall deposit the fee received under this section in the Motor Vehicle Account in the State Transportation Fund. The money deposited in the account pursuant to this section shall be available, upon appropriation by the Legislature, for expenditure to offset the costs of increasing the uniformed field strength of the Department of the California Highway Patrol beyond its 1994 staffing level and those costs associated with maintaining this new level of uniformed field strength and carrying out those duties specified in subdivision (a) of Section 830.2 of the Penal Code.[10]

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

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

*[Subsections (a) through (c) and (g) through (i) were omitted as irrelevant to OHVs.]*

(f) Employees of the Department of Parks and Recreation designated by the director pursuant to Section 5008 of the Public Resources Code, provided that the primary duty of the peace officer shall be the enforcement of the law as set forth in Section 5008 of the Public Resources Code.

### § 38230. Additional Fee: In Lieu Tax

In addition to the fees imposed by Section 38225, there shall be paid a four-dollar ($4) fee for the issuance or renewal of identification for every off-highway motor vehicle subject to identification. The fee imposed by this section is in lieu of all taxes according to value levied for state or local purposes.

### § 38231. Fees for Special Permits

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

### § 38231.5. Fees for Nonresident Permits

(a) The fee for a special permit issued under Section 38087.5 shall be not less than twenty dollars ($20), as established by the Department of Parks and Recreation. The Department of Parks and Recreation may adjust the special permit fee for a permit issued to a nonresident of this state under Section 38087.5, as necessary, to recover the costs of this program. After deducting its administrative and vendor costs, the Department of Parks and Recreation shall deposit the fees received under this section in the Off-Highway Vehicle Trust Fund. Money in the fund shall be allocated, upon appropriation, as provided in Sections 5090.50 and 5090.64 of the Public Resources Code.

(b) The Department of Parks and Recreation shall print the special permits required by Section 38087.5 and shall supervise the sale of those permits throughout the state.

(c) The Department of Parks and Recreation shall either distribute and sell the special permits directly or contract with vendors according to rules and regulations established by that department. The vendors shall receive a commission in an amount not to exceed 5 percent of the fee imposed pursuant to subdivision (a) for each special permit sold. The Department of Parks and Recreation may solicit the participation of qualified retail commercial enterprises engaged in the sale or rental of off-highway vehicles, equipment, accessories, or supplies to act as authorized vendors of the special permits and may authorize local and federal agencies that provide off-highway vehicle opportunities to act as authorized vendors of the special permits.

### § 38232. Fee: Special Transportation Identification

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

### § 38235. Report and Deposit of In Lieu Fees

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

### § 38240. Allocation and Use of In Lieu Fees

(a) The Controller shall allocate the fees collected under Section 38230 in July and January of each fiscal year to cities and counties based upon the proportional estimated off-highway motor vehicle use and related activity within the respective jurisdictions pursuant to the report described in subdivision (d) of Section 5090.15 of the Public Resources Code.

(b) The funds collected under Section 38230 shall be used for the purposes set forth in Sections 5090.50 and 5090.64 of the Public Resources Code.

(c) In addition to the purposes set forth in subdivision (b), funds received by a city or county pursuant to this section may be expended for facilities located outside the limits of the city or county if both of the following conditions are met:

    (1) The funds are expended for the purposes of acquiring, developing, and constructing trails, areas, or other facilities for the use of off-highway motor vehicles.

    (2) The funds are expended pursuant to an agreement with the city in which the facility is located or with the county in which the facility is located if the facility is located in an unincorporated territory.

(d) This section shall become operative on January 1, 2006.

### § 38245. Delinquency of Fees

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

### § 38246. Penalties

(a) A penalty shall be added upon any application for renewal of identification made on or after the day following the expiration date, except as provided in Section 4605, 38121, or 38247.

(b) If the fee specified in subdivision (a) or (b) of Section 38255 is not paid within 10 days after the fee becomes delinquent, a penalty shall be assessed.

(c) If renewal fee penalties have not accrued and the ownership of the vehicle is transferred, the transferee has 20 days from the date of transfer to pay the identification fees that become due without payment of any penalties that would otherwise be required under subdivision (a) or to file a certificate of nonoperation pursuant to subdivision (a) of Section 38121, if the vehicle will not be operated, used, or transported on public property or private property in a manner so as to subject the vehicle to identification during the subsequent identification period without first making application for identification of the vehicle, including full payment of all fees.

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

## § 38247. Waiver of Penalties and Registration Fees

(a) When a transferee or purchaser of a vehicle applies for transfer of identification, as provided in Section 38025, and it is determined by the department that penalties accrued prior to the purchase of the vehicle, and that the transferee or purchaser was not cognizant of the nonpayment of the fees for identification for the current or prior identification years, the department may waive the identification penalties upon payment of the fees for identification due.

(b) Other provisions of this code notwithstanding, the director may at his discretion investigate into the circumstances of any application for identification to ascertain if penalties had accrued through no fault or intent of the owner. Provided such circumstances prevail, the director may waive any penalties upon payment of the fees for identification then due.

(c) When a transferee or purchaser of a vehicle applies for transfer of identification of a vehicle, and it is determined by the department that fees for identification of the vehicle for any year are unpaid and due, that such fees became due prior to the purchase of the vehicle by the transferee or purchaser and that the transferee or purchaser was not cognizant of the fact that such fees were unpaid and due, the department may waive such fees and any penalty thereon when the identification fees due for the vehicle for the current year are paid.

(d) Upon the transfer of a vehicle for which fees for identification and any penalties thereon are unpaid and due, such fees and penalties are, notwithstanding the provisions of Article 6 (commencing with Section 9800) of this chapter, the personal debt of the transferor of the vehicle who did not pay such fees and penalties when they became due or accrued. Such fees and penalties may be collected by the department in an appropriate civil action if the department has waived such fees and penalties pursuant to subdivision (c).

### § 38250. Delinquency of Transfer Fees

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

### § 38255. Transfer Application and Fees

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

(a) For a transfer by the owner ..... $15

(b) For a transfer by the legal owner..... $15

(c) When application is presented showing a transfer by both the owner and legal owner ..... $15

### § 38260. Fees for Duplicate Certificates, Plates, Stickers

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

### § 38265. Penalty Fee for Delinquency

(a) The penalty for delinquency in respect to any transfer shall be fifteen dollars ($15), and shall apply only to the last transfer.

(b) The penalty for delinquency in respect to the fees imposed by Sections 38225 and 38230 shall be equal to one-half the fee after it has been computed.

## CHAPTER 5. Off-Highway Vehicle Operating Rules

## ARTICLE 1. Traffic Signs, Signals, and Markings

### § 38280. Federal, State, and Local Authority

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

law or any duly adopted regulation of such governmental authority or to warn or guide traffic.

### § 38285. Conformity to Uniform Standards

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

### § 38286. Organized Racing Events

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

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

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

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

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

(b) A person who operates a motor vehicle in an area closed to that vehicle is guilty of a public offense and shall be punished as follows:

  (1) Except as provided in paragraphs (2) and (3), the offense is an infraction punishable by a fine not exceeding fifty dollars ($50).

  (2) For a second offense committed within seven years after a prior violation for which there was a conviction punishable under paragraph (1), the offense is an infraction punishable by a fine not exceeding seventy-five dollars ($75).

(3) For a third or subsequent offense committed within seven years after two or more prior violations for which there were convictions punishable under this section, the offense is punishable by a fine not exceeding one hundred fifty dollars ($150). In addition to the fine, the court may assess costs sufficient to repair property damage resulting from the violation.

## § 38301.3. Vehicles: Prohibited Operation: Designated Wilderness

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

(a) Except as provided in subdivisions (b) and (c), the offense is an infraction punishable by a fine not exceeding one hundred fifty dollars ($150).

(b) For a second offense committed within seven years after a prior violation for which there was a conviction punishable under subdivision (a), the offense is an infraction punishable by a fine not exceeding two hundred twenty-five dollars ($225).

(c) (1) For a third or subsequent offense committed within seven years after two or more prior violations for which there were convictions punishable under this section, the offense is a misdemeanor punishable by a fine not exceeding three hundred dollars ($300) or by imprisonment in the county jail not exceeding 90 days, or by both that fine and imprisonment.

(2) In addition to the fine imposed under paragraph (1), the court may order impoundment of the vehicle used in the offense under the following conditions:

(A) The person convicted under this subdivision is the owner of the vehicle.

(B) The vehicle is subject to Section 4000 or 38010.

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

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

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

(a) Except as provided in subdivisions (b) and (c), the offense is an infraction punishable by a fine not exceeding one hundred fifty dollars ($150).

(b) For a second offense committed within one year of a prior violation for which there was a conviction punishable under subdivision (a), the offense is punishable as an infraction by a fine not exceeding two hundred fifty dollars ($250).

(c) (1) For a third or subsequent offense committed within one year of two or more prior violations for which there were convictions punishable under this section, the offense is punishable as a misdemeanor by a fine not exceeding one thousand dollars ($1,000) or by imprisonment in the county jail not exceeding 90 days, or by both that fine and imprisonment. Additionally, the court may order impoundment of the vehicle used in the offense under the following conditions:

(A) The person convicted under this subdivision is the owner of the vehicle.

(B) The vehicle is subject to Section 38010.

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

### § 38302. Unlawful to Place Unauthorized Signs

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

## ARTICLE 2. Operating Controls

### § 38304. Ability to Reach and Operate Controls

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

### §38304.1. Ability to Reach and Operate Controls: Persons Under 14

(a) Neither a parent or guardian of a child who is under 14 years of age, nor an adult who is authorized by the parent or guardian to supervise that child, shall grant permission to, or knowingly allow, that child to operate an off-highway motor vehicle in a manner that violates Section 38304.

(b) A person convicted of a violation of subdivision (a) is punishable as follows:

(1) For a first conviction, the court shall impose a fine of thirty-five dollars ($35).

(2) For a second conviction, a fine of not less than thirty-five dollars ($35) nor more than fifty dollars ($50).

(3) For a third or any subsequent conviction, a fine of not less than fifty dollars ($50) nor more than seventy-five dollars ($75).

## ARTICLE 3. Speed Laws

### § 38305. Basic Speed Law

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

### § 38310. Prima Facie Speed Limit

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

## ARTICLE 4. Turning and Starting

### § 38312. Starting Parked Vehicles

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

### § 38314. Turning Movements

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

## ARTICLE 5. Reckless Driving

### § 38316. Reckless Driving

(a) It is unlawful for any person to drive any off-highway motor vehicle with a willful and wanton disregard for the safety of other persons or property.

(b) Any person who violates this section shall, upon conviction thereof, be punished by imprisonment in the county jail for not less than five days nor more than 90 days or by fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500) or by both such fine and imprisonment, except as provided in Section 38317.

### § 38317. Reckless Driving Causing Bodily Injury

Whenever reckless driving of an off-highway motor vehicle proximately causes bodily injury to any person, the person driving the vehicle shall, upon conviction thereof, be punished by imprisonment in the county jail for not less than 30 days nor more than six months or by fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or by both such fine and imprisonment.

### § 38318. Throwing Substances at Off-Highway Motor Vehicles

(a) Any person who throws any substance at an off-highway motor vehicle or occupant thereof is guilty of a misdemeanor and shall be punished pursuant to Section 42002 by a fine of not more than one thousand dollars ($1,000) or by imprisonment in the county jail for not more than six months, or by both the fine and imprisonment.

(b) Any person who, with intent to do great bodily injury, maliciously and willfully throws or projects any rock, brick, bottle, metal, or other missile, projects any other substance capable of doing serious bodily harm, or discharges a firearm at an off-highway motor vehicle or occupant thereof is guilty of a felony.

### § 38318.5. Malicious Acts

(a) Any person who maliciously removes or alters trail, danger, or directional markers or signs provided for the safety or guidance of off-highway motor vehicles is guilty of a misdemeanor and shall be punished pursuant to Section 42002 by a fine of not more than one thousand dollars ($1,000) or by imprisonment in the county jail for not more than six months, or by both the fine and imprisonment.

(b) Any person who, with intent to do great bodily injury (1) proximately causes great bodily injury to any person as a result of acts prohibited by subdivision (a), or (2) erects or places any cable, chain, rope, fishing line, or other similar material which is unmarked or intentionally placed, or both, for malicious purpose is guilty of a felony.

(c) Any person convicted under subdivision (a) or (b) shall, if the violation proximately causes one or more adverse environmental impacts, also be liable in civil damages for the cost of mitigation, restoration or repair thereof, in addition to any other liability imposed by law.

## ARTICLE 6. Littering and Environmental Protection

### § 38319. Operation Causing Damage

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

### § 38320. Throwing, Depositing, or Dumping Matter

(a) No person shall throw or deposit, nor shall the registered owner or the driver, if such owner is not then present in the vehicle, aid or abet in the throwing or depositing, upon any area, public or private, any bottle, can, garbage, glass, nail, offal, paper, wire, any substance likely to injure or kill wild or domestic animal or plant life or damage traffic using such area, or any noisome, nauseous or offensive matter of any kind.

(b) No person shall place, deposit or dump, or cause to be placed, deposited or dumped, any rocks or dirt in or upon any area, public or private, without the consent of the property owner or public agency having jurisdiction over the area.

(c) Any person who violates this section shall, upon conviction thereof, be punished by a fine of not less than fifty dollars ($50). No part of such fine shall be suspended. The court may permit the fine required by this section to be paid in installments if the court determines that the defendant is unable to pay the fine in one lump sum.

### § 38321. Removal of Material

(a) Any person who drops, dumps, deposits, places, or throws, or causes or permits to be dropped, dumped, deposited, placed, or thrown, upon any area, any material described in Section 38320, shall immediately remove the material or cause it to be removed.

(b) If such person fails to comply with the provisions of this section, the governmental agency responsible for the maintenance of the area, or the property owner of the land on which the material has been deposited, may remove such material and collect, by civil action, if necessary, the actual cost of the removal operation in addition to any

other damages authorized by law from the person who did not comply with the requirements of this section.

## CHAPTER 6. Equipment of Off-Highway Vehicles

### ARTICLE 1. General Provisions

#### § 38325. Applicability of Provisions

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

#### § 38330. Vehicle Not Equipped or Unsafe

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

### ARTICLE 2. Lighting Equipment

#### § 38335. Headlamps

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

#### § 38345. Taillamps

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

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

### § 38346. Prohibition: Red or Blue Warning Lights

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

## ARTICLE 3. Brakes

### § 38355. Service Brakes Required

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

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

## ARTICLE 4. Equipment

### § 38365. Mufflers and Exhaust Systems

(a) Every off-highway motor vehicle, as defined in Section 38006, shall at all times be equipped with an adequate muffler in constant operation and properly maintained so as to meet the requirements of Section 38370, and no muffler or exhaust system shall be equipped with a cutout, bypass, or similar device.

(b) The provisions of subdivision (a) shall not be applicable to vehicles being operated off the highways in an organized racing or competitive event upon a closed course or in a hill climb or drag race, which is conducted under the auspices of a recognized sanctioning body or by permit issued by the local governmental authority having jurisdiction.

### § 38366. Spark Arrester

(a) Notwithstanding Section 4442 of the Public Resources Code, and except for vehicles with mufflers as provided in Article 2 (commencing with Section 27150) of Chapter 5 of Division 12, no person shall use, operate, or allow to be used or operated, any off-highway motor vehicle, as defined in Section 38006, on any forest-covered land,

brush-covered land, or grass-covered land unless the vehicle is equipped with a spark arrester maintained in effective working order.

(b) A spark arrester affixed to the exhaust system of a vehicle subject to this section shall not be placed or mounted in such a manner as to allow flames or heat from the exhaust system to ignite any flammable material.

(c) A spark arrester is a device constructed of nonflammable materials specifically for the purpose of removing and retaining carbon and other flammable particles over 0.0232 of an inch in size from the exhaust flow of an internal combustion engine or which is qualified and rated by the United States Forest Service.

(d) Subdivision (a) shall not be applicable to vehicles being operated off the highway in an organized racing or competitive event upon a closed course, which is conducted under the auspices of a recognized sanctioning body and by permit issued by the fire protection authority having jurisdiction.

**§ 38370. Noise Limits**

(a) The Department of Motor Vehicles shall not identify any new off-highway motor vehicle, which is subject to identification and which produces a maximum noise level that exceeds the following noise limit, at a distance of 50 feet from the centerline of travel, under test procedures established by the Department of the California Highway Patrol.

(1) Any such vehicle manufactured before January 1, 1973 .....92 dBA

(2) Any such vehicle manufactured on or after January 1, 1973, and before January 1, 1975 .....88 dBA

(3) Any such vehicle manufactured on or after January 1, 1975, and before January 11, 1986 .....86 dBA

(4) Any such vehicle manufactured on or after January 1, 1986 .....82 dBA

(b) The department may accept a dealer's certificate as proof of compliance with this section.

(c) Test procedures for compliance with this section shall be established by the Department of the California Highway Patrol, taking into consideration the test procedures of the Society of Automotive Engineers.

(d) No person shall sell or offer for sale any new off-highway motor vehicle which is subject to identification and which produces a maximum noise level that exceeds the noise limits in subdivision (a), and for which noise emission standards or regulations have not been adopted by the Administrator of the Environmental Protection Agency pursuant to the Federal Noise Control Act of 1972 (P.L. 92-574).

(e) No person shall sell or offer for sale any new off-highway motor vehicle which is subject to identification and which produces a noise level that exceeds, or in any way violates, the noise emission standards or regulations adopted for such a motor vehicle by the Administrator of the Environmental Protection Agency pursuant to the Federal Noise Control Act of 1972 (P.L. 92-574).

(f) As used in this section, the term "identify" is equivalent to the term "licensing" as used in Section 6(e)(2) of the Federal Noise Control Act of 1972 (P.L. 92-574).

(g) Any off-highway motor vehicle, when operating pursuant to Section 38001, shall at all times be equipped with a silencer, or other device, which limits noise emissions to not more than 101 dBA if manufactured on or after January 1, 1975, or 105 dBA if manufactured before January 1, 1975, when measured from a distance of 20 inches using test procedures established by the Society of Automotive Engineers under Standard J-1287. This subdivision shall only be operative until January 1, 2003.

(h) On and after January 1, 2003, off-highway motor vehicles, when operating pursuant to Section 38001, shall at all times be equipped with a silencer, or other device, which limits noise emissions.

(1) Noise emissions of competition off-highway vehicles manufactured on or after January 1, 1998, shall be limited to not more than 96 dBA, and if manufactured prior to January 1, 1998, to not more than 101 dBA, when measured from a distance of 20 inches using test procedures established by the Society of Automotive Engineers under Standard J-1287, as applicable. Noise emissions of all other off-highway vehicles shall be limited to not more than 96 dBA if manufactured on or after January 1, 1986, and not more than 101 dBA if manufactured prior to January 1, 1986, when measured from a distance of 20 inches using test procedures established by the Society of Automotive Engineers under Standard J-1287, as applicable.

(2) The Off-Highway Motor Vehicle Recreation Division of the Department of Parks and Recreation shall evaluate and reassess the dates specified in paragraph (1) and include the findings and recommendations in the noise report required in subdivision (o) of Section 5090.32 of the Public Resources Code.[11]

(i) Off-highway vehicle manufacturers or their agents prior to the sale to the general public in California of any new off-highway vehicle model manufactured after January 1, 2003, shall provide to the Off-Highway Motor Vehicle Recreation Division of the California Department of Parks and Recreation rpm data needed to conduct the J-1287 test, where applicable.

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

### § 38375. Prohibition: Use of Siren

(a) An off-highway motor vehicle, except an authorized emergency vehicle, shall not be equipped with a siren.

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

### § 38380. Additional Equipment

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

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

## ARTICLE 5. Emission Control Equipment

### § 38390. Pollution Control Device

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

### § 38391. Modification Devices

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

### § 38392. Imposition of Penalty for Willful Violation

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

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

### § 38393. Operation After Notice

No person shall operate an off-highway motor vehicle after notice by a traffic officer or other authorized public officer that such vehicle is not equipped with the required certified motor vehicle pollution control device correctly installed in operating condition, except as may be necessary to return the vehicle to the residence or place of business of the owner or driver or to a garage, until the vehicle has been properly equipped with such a device.

### § 38394. Proof of Correction

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

### § 38395. Modification Devices: Exceptions to Prohibition

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

(a) To not reduce the effectiveness of any required off-highway motor vehicle pollution control device; or

(b) To result in emissions from any such modified or altered off-highway vehicle which are at levels which comply with existing state or federal standards for that model year of the vehicle being modified or converted.

### § 38396. Federally Owned Off-Highway Vehicles

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

### § 38397. Applicability

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

## CHAPTER 7. All-Terrain Vehicles

### § 38500. Off-Highway Vehicle Safety Education Committee

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

### § 38500.1. Duties of Committee

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

(a) Develop minimum criteria for certification as an approved all-terrain vehicle safety training organization. The criteria shall include, but not be limited to, the following:

  (1) Curriculum and materials for training instructors to teach all-terrain vehicle operation and safety.

  (2) Curriculum and materials for training all-terrain vehicle safety.

  (3) Curriculum for teaching responsible use of off-highway vehicles with respect to environmental considerations, private property restrictions, off-highway vehicle operating laws, including noise and spark arrestor laws, and prohibitions against operating off-highway vehicles under the influence of alcohol or drugs.

  (4) Record keeping and insurance requirements to satisfy the requirements of Sections 11103.1 and 11108.

(b) Upon presentation to the committee of a proposed program by an applicant to become an approved all-terrain vehicle safety training organization, the committee shall determine whether the applicant's program meets the minimum criteria and, if

approved, shall recommend the organization for licensing pursuant to Section 11105.6.

## § 38501. Safety Certificates

(a) An all-terrain vehicle safety training organization, commencing on January 1, 1989, shall issue an all-terrain vehicle safety certificate furnished by the department to any individual who successfully completes a course of instruction in all-terrain vehicle operation and safety as approved and certified by the Off-highway Vehicle Safety Education Committee.

(b) The department shall charge a fee not to exceed three dollars ($3) for each all-terrain vehicle safety certificate issued by an all-terrain vehicle safety training organization to each person completing a course of instruction from an all-terrain vehicle safety instructor using the approved course of instruction of the all-terrain vehicle safety training organization. The amount of the fee shall be determined by the department and shall be sufficient to defray the actual costs incurred by the department for administering and monitoring this program.

(c) An all-terrain vehicle safety training organization shall not charge a fee in excess of the fee charged by the department pursuant to subdivision (b) for furnishing an all-terrain vehicle safety certificate. An organization may charge a fee not to exceed three dollars ($3) in addition to the fee charged by the department for the issuance of a duplicate certificate and shall provide a duplicate certificate if requested by the person who completed the course.

## § 38502. Monitoring

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

## § 38503. Conditions for Operating All-Terrain Vehicles: Minors

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

(a) The person is taking a prescribed safety training course under the direct supervision of a certified all-terrain vehicle safety instructor.

(b) The person is under the direct supervision of an adult who has in their possession an appropriate safety certificate issued by this state, or issued under the authority of another state.

(c) The person has in possession an appropriate safety certificate issued by this state or issued under the authority of another state.

### § 38504. Conditions for Operating All-Terrain Vehicles: Additional Requirements

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

### § 38504.1. Violation of Operating Conditions All-Terrain Vehicles: Fines

(a) Neither a parent or guardian of a child who is under 14 years of age, nor an adult who is authorized by the parent or guardian to supervise that child shall grant permission to, or knowingly allow, that child to operate an all-terrain vehicle in a manner that violates Section 38504.

(b) A person convicted of a violation of subdivision (a) is punishable as follows:

(1) For a first conviction, the court shall either impose a fine of one hundred twenty-five dollars ($125) or order the person to take or retake and complete an all-terrain vehicle safety training course pursuant to Section 38501. If ordered to take or retake and complete the safety training course, the person shall provide the court a copy of the all-terrain vehicles safety certificate issued as a result of that completion.

(2) For a second conviction, a fine of not less than one hundred twenty-five dollars ($125) nor more than two hundred fifty dollars ($250).

(3) For a third or any subsequent conviction, a fine of not less than two hundred fifty dollars ($250) nor more than five hundred dollars ($500).

### § 38504.2. All-Terrain Vehicles: Court Ordered Safety Training Course

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

### § 38505. All-Terrain Vehicles: Safety Helmet Required

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

### § 38506. All-Terrain Vehicles: Passengers Prohibited

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

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

## CHAPTER 8. Recreational Off-Highway Vehicles

### § 38600. Conditions for Operating Recreational Off-Highway Vehicles: Minors

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. Conditions for Operating Recreational Off-Highway Vehicles: Safety Helmet Required

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

### § 38602. Conditions for Operating Recreational Off-Highway Vehicles: Seatbelt, Shoulder Belt or Safety Harness

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. Conditions for Operating Recreational Off-Highway Vehicles: Passengers**

(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.

**§ 38604. Conditions for Operating Recreational Off-Highway Vehicles: Additional Passenger Requirements**

(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.

## DIVISION 17. Offenses and Prosecution

## CHAPTER 2. Penalties

## ARTICLE 4. Notice to Correct Violation

### § 40610. Notice

(a) (1) Except as provided in paragraph (2), if, after an arrest, accident investigation, or other law enforcement action, it appears that a violation has occurred involving a registration, license, all-terrain vehicle safety certificate, or mechanical requirement of this code, and none of the disqualifying conditions set forth in subdivision (b) exist and the investigating officer decides to take enforcement action, the officer shall prepare, in triplicate, and the violator shall sign, a written notice containing the violator's promise to correct the alleged violation and to deliver proof of correction of the violation to the issuing agency.

(2) If any person is arrested for a violation of Section 4454, and none of the disqualifying conditions set forth in subdivision (b) exist, the arresting officer shall prepare, in triplicate, and the violator shall sign, a written notice containing the violator's promise to correct the alleged violation and to deliver proof of correction of the violation to the issuing agency. In lieu of issuing a notice to correct violation pursuant to this section, the officer may issue a notice to appear, as specified in Section 40522.

(b) Pursuant to subdivision (a), a notice to correct violation shall be issued as provided in this section or a notice to appear shall be issued as provided in Section 40522, unless the officer finds any of the following:

(1) Evidence of fraud or persistent neglect.

(2) The violation presents an immediate safety hazard.

(3) The violator does not agree to, or cannot, promptly correct the violation.

(c) If any of the conditions set forth in subdivision (b) exist, the procedures specified in this section or Section 40522 are inapplicable, and the officer may take other appropriate enforcement action.

(d) Except as otherwise provided in subdivision (a), the notice to correct violation shall be on a form approved by the Judicial Council and, in addition to the owner's or operator's address and identifying information, shall contain an estimate of the reasonable time required for correction and proof of correction of the particular defect, not to exceed 30 days, or 90 days for the all-terrain vehicle safety certificate.

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

## CHAPTER 1. Penalties

### ARTICLE 1. Public Offenses

#### § 42001.10. Unidentified Off-Highway Vehicle

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

## CHAPTER 2. Disposition of Fees, Fines, and Forfeitures

### ARTICLE 1. Fines and Forfeitures

#### § 42200. Disposition by Cities and Other Local Entities

(a) Of the total amount of fines and forfeitures received by a city under Section 1463 of the Penal Code that proportion which is represented by fines and forfeitures collected from any person charged with a misdemeanor under this code following arrest by an officer employed by a city, shall be paid into the treasury of the city and deposited in a special fund to be known as the "Traffic Safety Fund," and shall be used exclusively for official traffic control devices, the maintenance thereof, equipment and supplies for traffic law enforcement and traffic accident prevention, and for the maintenance, improvement, or construction of public streets, bridges, and culverts within the city, but the fund shall not be used to pay the compensation of traffic or other police officers. The fund may be used to pay the compensation of school crossing guards who are not regular full-time members of the police department of the city.

(b) For purposes of this section, "city" includes any city, city and county, district, including any enterprise special district, community service district, or county service area engaged in police protection activities as reported to the Controller for inclusion in the 1989-90 edition of the Financial Transactions Report Concerning Special Districts under the heading of Police Protection and Public Safety, authority, or other local agency (other than a county) which employs persons authorized to make arrests or to issue notices to appear or notices of violation which may be filed in court.

#### § 42201. Disposition by County

(a) Of the total amount of fines and forfeitures received by a county under Section 1463.001 of the Penal Code, fines and forfeitures collected from any person charged with a misdemeanor under this code following arrest by any officer employed by the

state or by the county shall be paid into the general fund of the county. However, the board of supervisors of the county may, by resolution, provide that a portion thereof be transferred into the road fund of the county.

(b) The board of supervisors of a county may enter into a contract with the Department of the California Highway Patrol for the purpose of providing adequate protection for school pupils who are required to cross heavily traveled streets, highways, and roadways in the unincorporated areas of the county. When requested, the Department of the California Highway Patrol may provide such service and the county shall reimburse the state for salaries and wages of crossing guards furnished by the Department of the California Highway Patrol pursuant to such contract, including any necessary retirement and general administrative costs and expenses in connection therewith, and may pay the costs thereof from amounts deposited in the road fund pursuant to this section.

(c) Fines and forfeitures received by a county under Section 1463.001 of the Penal Code may be used to pay the compensation of school crossing guards and necessary equipment costs and administrative costs.

(d) When requested by any county which had in effect on June 30, 1979, a contract with the Department of the California Highway Patrol, to provide protection for school pupils at school crossings, the department upon request of a county shall continue to administer such school crossing program until June 30, 1980. The county shall reimburse the Department of the California Highway Patrol for general administrative costs and expenses in connection therewith, except that, effective January 1, 1980, the crossing guards shall be furnished to the California Highway Patrol and such crossing guards shall be employees of the county, the county superintendent of schools, the affected school districts, or both the superintendent and the affected school districts, at the option of the board of supervisors of the county. Any salaries and wages of crossing guards, including necessary retirement and equipment costs and any administrative costs shall be paid or reimbursed by the county from amounts deposited in the road fund pursuant to this section.

(e) The board of supervisors may adopt standards for the provision of school crossing guards. The board has final authority over the total cost of the school crossing guard program of any agency to be paid or reimbursed from amounts deposited in the road fund pursuant to this section. The board of supervisors may specify that a designated county officer, employee, or commissioner is to hire school crossing guards, or, in the alternative, the board may specify that any school district crossing guard program in unincorporated areas shall be maintained by the school districts desiring the program.

## § 42201.1. Additional Disposition by County

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

### § 42201.5. Disposition of Infraction Fines and Forfeitures

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

### § 42201.6. Refunds: Bail Deposits

(a) A deposit of bail received with respect to an infraction violation of this code, or any local ordinance adopted pursuant to this code, including, but not limited to, a violation involving the standing or parking of a vehicle, shall be refunded by the agency which issued the notice of violation or the court within 30 days of a cancellation, dismissal, or finding of not guilty of the offense charged.

(b) Multiple or duplicate deposits of bail or parking penalty shall be identified by the court or agency and refunded within 30 days of identification.

(c) Any amount to be refunded in accordance with subdivision (a) or (b) shall accrue interest, at the rate specified in Section 3289 of the Civil Code, on and after the 60th day of a cancellation, dismissal, or finding of not guilty or identification of multiple or duplicate deposits, and shall be refunded as soon as possible thereafter along with accrued interest.

### § 42202. Disobedience by Officials

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

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

Notwithstanding Section 42201 or 42201.5, 50 percent of all fines and forfeitures collected in a superior court upon conviction or upon the forfeiture of bail for violations of any provisions of the Vehicle Code, or of any local ordinance or resolution, relating to stopping, standing, or parking a vehicle, that have occurred upon the premises of facilities physically located in such county, but which are owned by another county, which other county furnishes law enforcement personnel for the premises, shall be transmitted pursuant to this section to the county which owns the facilities upon which the violations occurred. The court receiving such moneys shall, once each month, transmit such moneys received in the preceding month to the county treasurer of the county in which the court is located. Once each month in which the county treasurer receives such moneys, the county treasurer shall transmit to the county which owns such facilities an amount equal to 50 percent thereof. The county owning such facilities shall, upon receipt

of such moneys from the superior court of the county in which the facilities are physically located, deposit such moneys in its county treasury for use solely in meeting traffic control and law enforcement expenses on the premises upon which the violations occurred.

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

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

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

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

(a) Notwithstanding Chapter 3 (commencing with Section 42270), the department shall file, at least monthly with the Controller, a report of money received by the department pursuant to Section 9400 for the previous month and shall, at the same time, remit all money so reported to the Treasurer. On order of the Controller, the Treasurer shall deposit all money so remitted into the State Highway Account in the State Transportation Fund, or directly into the Transportation Debt Service Fund as provided in paragraph (2) of subdivision (c) of Section 9400.4, as applicable.

(b) The Legislature shall appropriate from the State Highway Account in the State Transportation Fund to the department and the Franchise Tax Board amounts equal to the costs incurred by each in performing their duties pursuant to Article 3 (commencing with Section 9400) of Chapter 6 of Division 3. The applicable amounts shall be determined so that the appropriate costs for registration and weight fee collection activities are appropriated between the recipients of revenues in proportion to the revenues that would have been received individually by those recipients if the total fee imposed under the Vehicle License Fee Law (Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code) was 2 percent of the market value of a vehicle. The remainder of the funds collected under Section 9400 and deposited in the account, other than the direct deposits to the Transportation Debt Service Fund referenced in subdivision (a), may be appropriated to the Department of Transportation, the Department of the California Highway Patrol, and the Department of Motor Vehicles for the purposes authorized under Section 3 of Article XIX of the California Constitution.

# CALIFORNIA
# GOVERNMENT CODE

## DIVISION 4. Public Officers and Employees

## CHAPTER 4. Resignations and Vacancies

## ARTICLE 2. Vacancies

### § 1774. Commission Appointments.

(a) When an office, the appointment to which is vested in the Governor and Senate, either becomes vacant or the term of the incumbent thereof expires, the Governor may appoint a person to the office or reappoint the incumbent after the expiration of the term. Until Senate confirmation of the person appointed or reappointed, that person serves at the pleasure of the Governor. If the term of office of an incumbent subject to this section expires, the Governor shall have 60 days after the expiration date to reappoint the incumbent. If the incumbent is not reappointed within the 60-day period, the office shall be deemed to be vacant as of the first day following the end of the 60-day period.

(b) With respect to the appointment or reappointment by the Governor of a person to an office subject to confirmation by the Senate, the Governor shall submit the name of the person appointed, or the name of the incumbent reappointed, and the effective date of the appointment or reappointment to the Senate or, if the Senate is in recess or has adjourned, to the Secretary of the Senate, within 60 days after the person first began performing the duties of the office, or, as to the reappointment of an incumbent, within 90 days after the expiration date of the term. If the Governor does not provide the required notification within 60 days after the person first began performing the duties of the office, or, as to the reappointment of an incumbent to an office after the expiration date of the term, within 90 days after the expiration of the term, the office shall be deemed to be vacant as of the first day immediately following the end of the applicable period.

(c) If the Senate either refuses to confirm, or fails to confirm within 365 days after the day the person first began performing the duties of the office, or, with respect to an incumbent whose appointment to that office previously had been confirmed by the Senate and who is reappointed to that office, within 365 days after the expiration date of the term, the following shall apply:

(1) If the Senate refuses to confirm, the person may continue to serve in that office until 60 days have elapsed since the refusal to confirm or until 365 days have elapsed since the person first began performing the duties of the office, whichever occurs first, or with respect to an incumbent whose appointment to that office previously had been confirmed by the Senate and who is reappointed

to that office, until 60 days have elapsed since refusal or until 365 days after the expiration date of the prior term, and the office for which the appointment was made shall be deemed to be vacant as of the first day immediately following the end of the applicable period.

(2) If the Senate fails to confirm within the applicable 365-day period, the person may not continue to serve in that office, and the office for which the appointment was made shall be deemed to be vacant as of the first day immediately following the end of the 365-day period.

# CALIFORNIA
# CODE OF REGULATIONS

## TITLE 14. Natural Resources

## DIVISION 3. Department of Parks and Recreation

## CHAPTER 1. General

### § 4300. Authority

All sections of Chapters 1 through 8 are adopted pursuant to Sections 5001.5, 5003 and 5008 of the Public Resources Code and apply to all units under control of the Department of Parks and Recreation unless otherwise indicated.

(a) When it is necessary to refer to one or more units under control of the Department of Parks and Recreation by terms other than their classification, the terms "unit of the State Park System," "unit of the State Vehicular Recreation Area and Trail System," or simply "unit" will be used.

(b) A title, where used, does not limit the language of a section.

(c) These sections are severally adopted. If one or more of these sections is deemed invalid, the remaining sections are intended to remain in effect. Where a section herein or rule is amended or repealed, acts and omissions prior thereto may be prosecuted as though such section or rule had not been so amended or repealed.

(d) Special regulations for an area or a subject do not preclude the application of general regulations unless expressly so indicated.

(e) The privilege of any person to be present in any unit under control of the Department of Parks and Recreation is hereby expressly conditioned upon compliance by that person with all applicable laws and regulations. In addition to other penalties prescribed by law, violation of any law or regulation shall subject the violator to ejection from the unit in which the violation occurs.

(f) This provision shall be enforced by peace officers having concurrent jurisdiction in any unit in which a violation of regulations may take place.

(g) Nothing contained herein shall be construed to authorize or prohibit any act or acts which are expressly authorized or prohibited by statute of the State of California or by ordinance of a governmental subdivision thereof with concurrent jurisdiction over a unit or units controlled by the Department of Parks and Recreation.

## § 4301. Definitions

(a) "Department," as used herein, means the State Department of Parks and Recreation, having a headquarters in Sacramento, California.

(b) "Director," as used herein, means Director of Parks and Recreation.

(c) "Deputy Director of Off-Highway Motor Vehicles," means the person in charge of Division of Off-Highway Motor Vehicle Recreation.

(d) "Division Chief" means the person in charge of an administrative area or division consisting of units and districts, under control of the Department of Parks and Recreation.

(e) "District Superintendent" means the person in charge of an administrative district consisting of one or more units under control of the Department of Parks and Recreation.

(f) "Person," as used herein, shall be construed to mean and include natural persons, firms, copartnerships, corporations, clubs, and all associations or combinations of persons whenever acting for themselves or by an agent, servant, or employee.

(g) "Nighttime," is any time from one-half hour after sunset to one-half hour before sunrise.

(h) "Water-ski" means any aquaplane, water-ski, or any other device used, or which may be used, for carrying persons or property while being towed behind a boat.

(i) Posting of Notices. The term "posted" as used herein, unless otherwise indicated, shall mean and require that the Department shall set aside at the district headquarters and at the unit affected and in a location convenient to the general public, a bulletin board or similar device upon which shall be posted all special instructions, orders, pertaining to units of the district including but not limited to special hours of operation, swimming and boating restrictions, hunting and camping restrictions, and special instructions pertaining to areas where activities are curtailed or restricted. Proof of posting shall be filed in the offices of the division chiefs or the Sacramento California Office of the Division of Off-Highway Motor Vehicle Recreation.

(j) Special Events. Special Events are activities which are beyond the normal scope of activities and operations conducted in units under control of the Department of Parks and Recreation. Consistent with existing state policies and laws, District Superintendents may approve by permit a Special Event when it is found to be in the best interest of the Department of Parks and Recreation and is conducted by an appropriate sponsor at no net expense to the state. Special Event permits are required when fees are charged by the event sponsor beyond the regular State Park Facility Use Fees, when the Department has determined the event will create a greater potential hazard or liability to the State than incurred through typical operations,

when the activity includes the exclusive use of an area within the park, when the activity interferes significantly with the public's use of an area, when additional staffing or staff time is required,or where items or services are sold. Special Event permits are required for any activity within the State Park System which meet any of these criteria, and which occur wholly or partially within or on any property owned, operated, or administered by the Department. Upon a finding by the District Superintendent that a special event is consistent with the unit's use, he/she may issue a Special Event Permit for such use. The terms and conditions of such permit shall prevail where inconsistent with the rules herein when approved by the Division Chief, Chief of Off Highway Motor Vehicle Recreation Division or the District Superintendent.

(k) Juveniles. The term juvenile as used herein shall be construed to mean any person under the age of 18 years.

(l) "Aircraft" means any powered, unpowered, or towed device that is used or intended to be used to carry a person or persons in the air.

(m) Beach. Unless the context otherwise requires, the use of the word "beach" herein means that portion of a unit under control of the Department of Parks and Recreation between the edge of a body of water, extending inland, to whichever comes first: a fence, a distinctive berm or cliff, a line of vegetation, or an officially erected sign specifically designating the boundaries of the beach.

(n) Road. A road is that portion of a unit improved, designed, ordinarily used, or designated for vehicular travel, including vehicular trails within State Vehicular Recreation Area and Trail System.

(o) Designate. Designate means to indicate, specify, or make recognizable by some mark, sign, or name.

(p) Animals. An animal is any animate being which is endowed with the power of voluntary motion; animate being, not human.

(q) Placing of Road Signs. The term "Placing of Road Signs," as used herein, means the placing of signs regulating the operation of motor vehicles, including, but not limited to, stop signs, yield signs, and speed limit signs, which is done in accordance with those instructions contained in section 21401 of the California Vehicle Code.

(r) Placing of Vehicle Recreation Trail Signs. The term "Placing of Vehicle Recreation Trail Signs," as used herein, means the placing of signs regulating the operation of motor vehicles within the State Vehicular Recreation Area and Trail System which is done in accordance with section 38280 of the California Vehicle Code.

(s) Facility. Facility means any structure or combination of structures, or any feature or entity modified by humans for human use.

(t) Unit. Unit means any named and classified unit under control of the Department of Parks and Recreation, as well as any Department projects which have not yet been named or classified.

(u) Camping is defined as:

1) Erecting a tent or shelter or arranging bedding, or both, for purposes of, or in such a way as will permit, remaining overnight.

2) Use of houseboats or boats for the purpose of sleeping during the nighttime hours, whether anchored, moored or beached.

3) Use of any parked or standing vehicle for the purpose of sleeping during nighttime hours.

(v) Rockhounding is defined as being the recreational gathering of stones and minerals found occurring naturally on the undisturbed surface of the land, including panning for gold in the natural water-washed gravel of streams.

(w) Float Material is defined as materials only occurring naturally on the surface of the land.

## § 4302. Use of Facilities, Payment

No person shall use or be present in any portion of a unit under control of the Department of Parks and Recreation for which a use fee has been established by the Department, without paying such fee, with the exception of units which require payment of fees upon exit. This shall not apply to state officers and employees on official business nor to persons excepted by the Department for administrative reasons.

## § 4304. Aircraft

No person, using any aircraft, shall land, taxi on or take off from any body of water or from any portion of any unit if not specifically approved by the Department and the unit has been designated for landing of aircraft. No person shall parachute into, fly an unlicensed aircraft, ultralight vehicle, or hang glider over, or parasail or balloon over any State Park unit at an altitude of less than 500 feet unless authorized by the Department by posted order in accordance with section 4301(i).

## § 4305. Animals

(a) Protection. No person shall molest, hunt, disturb, harm, feed, touch, tease, or spotlight any kind of animal or fish, or so attempt.

(b) No person shall injure, trap, take, net, poison, or kill, any kind of animal or fish, or so attempt, except that fish and bait may be taken, other than for commercial purposes in accordance with state laws and regulations.

(c) Where hunting in a state recreation area or within the State Vehicular Recreation Area and Trail System or portion thereof is permitted by regulations herein, so much of this section as is inconsistent therewith shall be deemed inapplicable, provided hunting is conducted in the manner specified.

(d) This section does not apply to activities undertaken by the Department in conjunction with its resource management activities.

(e) Feeding. In units or portions thereof where posted in accordance with Section 4301(i), no person shall feed any wildlife or feral animal listed on such posting.

## § 4306. Plants and Driftwood

(a) No person shall willfully or negligently pick, dig up, cut, mutilate, destroy, injure, disturb, move, molest, burn, or carry away any tree or plant or portion thereof, including but not limited to leaf mold, flowers, foliage, berries, fruit, grass, turf, humus, shrubs, cones, and dead wood, except in specific units when authorization by the Department to take berries, or gather mushrooms, or gather pine cones, or collect driftwood is posted at the headquarters of the unit to which the authorization applies. Any collecting allowed by authority of this section may be done for personal use only and not for commercial purposes.

(b) No person may gather more than five pounds of such material except driftwood each day in the State Park System or State Vehicular Recreation Area and Trail System.

(c) No person may gather more than 50 pounds or one piece of driftwood each day in the State Park System or State Vehicular Recreation and Trails System.

(d) Use of tools, vehicles, and equipment for the collecting of driftwood is prohibited.

(e) Upon a finding that it will be in the best interest of the Department of Parks and Recreation, the District Superintendent may, by posting, authorize the collection of driftwood from specified units on a temporary basis, either by the general public or by commercial operators, if necessary, in quantities, for purposes, and by means other than as specified by this section.

(f) This section does not apply to activities undertaken by the Department in conjunction with its resource management activities.

## § 4307. Geological Features

(a) No person shall destroy, disturb, mutilate, or remove earth, sand, gravel, oil, minerals, rocks, paleontological features, or features of caves.

(b) Rockhounding may be permitted as defined in Section 4301(v).

## § 4308. Archaeological Features

No person shall remove, injure, disfigure, deface, or destroy any object of archaeological or historical interest or value.

## § 4309. Special Permits

The Department may grant a permit to remove, treat, disturb, or destroy plants or animals or geological, historical, archaeological or paleontological materials; and any person who has been properly granted such a permit shall to that extent not be liable for prosecution for violation of the foregoing.

## § 4310. Litter

No person shall leave, deposit, drop, or scatter bottles, broken glass, ashes, waste paper, cans, or other litter in a unit except in a receptacle designated for that purpose, and no person shall import any litter, or import and deposit any litter into or in any unit from other places.

## § 4311. Fire in Stoves, Smoking

No person shall

(a) light, build, use, or maintain a fire within a unit except in a camp stove or a fireplace provided, maintained, or designated by the Department for such purpose. Portable camp stoves may be used in portions of units approved by the Department.

(b) Fires shall at all times be maintained in a safe condition that does not threaten any person, natural or structural feature.

(c) Upon a finding of extreme fire hazard by the Department no person shall smoke or build fires in portions of units other than those designated by the Department for such purposes.

(d) This section does not apply to fire fighters or Department employees carrying out fire suppression or resource management activities approved by the Department.

## § 4312. Control of Animals

(a) No person shall permit a dog to run loose, or turn loose any animal in any portion of a unit, except upon written authorization by the District Superintendent.

(b) No person shall keep an animal in any unit except under his/her immediate control.

(c) No person shall keep a noisy, vicious, or dangerous dog or animal or one which is disturbing to other persons, in any unit and remain therein after he/she has been asked by a peace officer to leave.

(d) No person shall permit a dog or a cat to remain outside a tent, camper, or enclosed vehicle during the night.

(e) No person shall bring a dog into, permit a dog to enter or remain, or possess a dog in units under control of Department of Parks and Recreation unless the dog is on leash of no more than six feet in length and under the immediate control of a person or confined in a vehicle.

(f) No person shall bring a dog into, permit a dog to enter or remain, or possess a dog:

1) beyond the limits of campgrounds, picnic areas, parking areas, roads, structures or in posted portions of units except as provided elsewhere in this section.

2) on any beach adjacent to any body of water in any unit except in portions of units designated for dogs.

(g) In state recreation areas open to hunting pursuant to Public Resources Code, Section 5003.1, dogs may be used to assist in hunting. Such dogs shall not be permitted to pursue or take any wildlife other than that being hunted.

(h) Subsections (e) and (f) shall not apply to trained "seeing eye," "signal," or "service" dogs used to guide a physically impaired person there present, or dogs that are being trained to become "seeing eye," "signal," or "service" dogs.

(g) Grazing. No person shall graze, herd or permit livestock to enter or remain inside a unit without specific written authorization of the Department, except for grazing by animals used for riding or packing under direct control of visitors or concessionaires.

## § 4313. Weapons and Traps

(a) No person shall carry, possess or discharge across, in or into any portion of any unit any weapon, firearm, spear, bow and arrow, trap, net, or device capable of injuring, or killing any person or animal, or capturing any animal, or damaging any public or private property, except in underwater parks or designated archery ranges where the Department of Parks and Recreation finds that it is in its best interests.

(b) Nothing herein contained shall be construed in derogation of the use of weapons permitted by law or regulation and to be used for hunting in any unit, or portion thereof, open to hunting.

(c) Firearms not having a cartridge in any portion of the mechanism, other unloaded weapons or devices such as traps, nets, and bows and arrows may be possessed within temporary lodging or mechanical mode of conveyance when such implements are rendered temporarily inoperable or are packed, cased, or stored in a manner that will prevent their ready use.

## § 4314. Fireworks

(a) No person shall possess, discharge, set off, or cause to be discharged, in or into any portion of a unit any firecrackers, torpedoes, rockets, fireworks, explosives, or substances harmful to the life or safety of persons.

(b) The Department may grant exceptions to this section for specified locations and periods of time upon finding that such activity will not endanger persons, property, or resources.

(c) This section does not apply to explosives lawfully possessed or used under the direction of the Department.

## § 4316. Commercial Filming

Except where authorized by the Department, no person shall photograph, videotape or film for commercial (profit and sale) purposes in any unit, or portion thereof, owned, operated or administered by the Department without a permit from the California Film Commission, pursuant to Government Code section 14998.8.

## § 4317. Curfew

(a) The Department may from time to time by order declare curfew for juveniles in any unit or portion thereof upon a finding that conditions therein are such as to warrant special measures for the protection of juveniles and others and for the safety and welfare of the general public.

(b) Such curfew order shall specify the hours thereof and the period therefor and shall be posted.

(c) When curfew has been so ordered, no juvenile so prohibited shall during the effective period enter or remain therein, except as follows:

(1) One who is accompanied by a parent or guardian.

(2) One who is part of a group permitted to occupy a unit or portion thereof and who is supervised by at least one responsible adult for each fifteen juveniles.

(3) One who is lawfully camping, having furnished to the Department written consent of and the full name, residence number, and telephone number of the juvenile's parent or guardian, with the inclusive dates for which permission is granted to camp at the unit involved.

### § 4318. Peeping Toms

No person shall loiter, prowl or wander about a park restroom, shower or changing facility and peek into the doors and windows or other openings of such facilities when occupied, without visible or lawful business with the occupants thereof.

### § 4319. Games and Recreational Activities

No person shall engage in games or recreational activities that endanger the safety of persons, property, resources, or interfere with visitor activities except as permitted by the Department. No person shall hold, sponsor, lead, or otherwise have control over a game or recreational activity occurring wholly or partially within or on any property owned, operated or administered by the Department without an approved Special Event permit if any of the criteria set forth in section 4301(j) apply.

### § 4320. Peace and Quiet

To insure peace and adequate rest for visitors:

(a) No person shall disturb others in sleeping quarters or in campgrounds between the hours of 10 p.m. and 6 a.m. daily.

(b) No person shall, at any time, use outside machinery or electronic equipment including electrical speakers, radios, phonographs, televisions, or other devices, at a volume which is likely to be, disturbing to others without specific permission of the Department.

(c) No person shall operate an engine driven electric generator which emits sound which is, or is likely to be, disturbing to others between the hours of 8 p.m. and 10 a.m. without permission of the Department.

### § 4321. Assembly

No person shall conduct or attend an assembly or public demonstration except by permission of the Department upon a finding that such activity would not substantially interfere with park use.

## § 4322. Nudity

No person shall appear nude while in any unit except in authorized areas set aside for that purpose by the Department. The word nude as used herein means unclothed or in such a state of undress as to expose any part or portion of the pubic or anal region or genitalia of any person or any portion of the breast at or below the areola thereof of any female person.

## § 4323. Equipment and Occupancy

(a) Arrangement and Numbers. The Department may specify the size, type, arrangement and use of recreational equipment and the number of persons permitted in any unit or portion thereof. No person shall otherwise introduce, keep, use, or arrange his/her equipment. No person shall otherwise exceed established occupancy limitations.

(b) Food Storage. In units or portions thereof where posted in accordance with Section 4301(i), no person shall store food, lawfully taken fish or wildlife, garbage or equipment with food residue, other than in the sealed compartment of a vehicle incapable of being opened by wild animals, in a food storage unit designated by the Department, in accordance with posted instructions, or, in areas where bears are a problem, suspended at least ten (10) feet above any material that would support the weight of a bear and separated horizontally by at least four (4) feet from any post, tree trunk or other object. This restriction does not apply to food that is actively being carried, consumed or prepared for human consumption or pets.

(c) No person shall erect, maintain, use, or occupy any temporary tent or shelter on any beach unless there is an unobstructed view through such tent or shelter from at least two sides, provided, however, that nothing herein contained shall be construed to authorize camping except as provided in Section 4451 hereof.

## § 4324. Sanitation

(a) No person shall deposit waste, water, sewage or effluent from sinks, portable toilets, and other plumbing fixtures directly upon or into the surface of the ground or water.

(b) No person shall deposit any body waste in or any portion of any comfort station or other structure except into fixtures provided for that purpose.

(c) No person shall place any bottle, can, cloth, rag, metal, wood, paper, or stone substances in any plumbing fixture in such a manner as would interfere with the normal operation of such fixture.

## § 4326. Violation of Posted Orders or Special Use, Special Event, Film or Collection Permit

No person shall

(a) violate any provision of an order posted pursuant to the provisions of section 4301(i) hereof including, but not limited to, prohibited areas, use periods, no alcoholic beverage areas, no smoking areas and no parking areas, where posted in accordance with 4301(q), or,

(b) violate any provision or restriction of a Special Use, Special Event, Film or Collection permit issued pursuant to these regulations.

## § 4330. Pesticides

(a) No person shall disperse or otherwise apply any pesticide within any unit or portion thereof, whether to the air, water, ground, or vegetation, unless prior written approval has been obtained from the Department.

(b) Exception is made in the instance of dispersal within enclosed buildings, tents, tent trailers, or within any vehicle or boat containing living or sleeping quarters, or the use outdoors within ten (10) feet of the table, stove, tent, or food lockers, of hand-held finger-operated aerosol dispensers or hand-operated plunger-type dispensers with net contents not to exceed twenty (20) ounces and containing any of the following pesticides: Pyrethrine, Allethrin, Piperonyl butoxide, Malathion, DDVP (Dichlores Vapona), Dibrom, Rotenone (Derrin, Cube Root).

## § 4331. Soliciting

No person shall solicit, sell, hawk, or peddle any goods, wares, merchandise, services, liquids, or edibles for human consumption or distribute circulars in any unit, except as permitted by the Department. Such prohibition shall include sales activities that utilize park property or facilities to complete the terms of sale or provide a service as a result of the sale or that effect park operations, facility use or visitor safety. Also included are sales activities which encroach on the sales rights of a vendor authorized to sell such products, or services pursuant to a concession contract with the Department.

## § 4332. Preparation of General Plan

After classification or reclassification of a unit, the Department shall obtain public comment and prepare a general plan. The general plan shall consist of a resource element, a land use element, a facilities element, and an operations element. In order that it shall act as a guide and constraint, the resource element will be prepared, made available for public comment, and approved by the Director before substantial work is done on the other elements of the plan.

### § 4333. Glass Containers

No person shall possess or use a glass container, bottle, jar, tumbler, or vessel of whatever nature, empty or not, where prohibited by order of the Department, except that persons may pick up glass containers left or discarded by others and remove or deposit same in an approved trash receptacle. Signs shall be posted at beaches and locations where glass containers are prohibited.

## CHAPTER 2. Vehicles, Boats, Aircraft, Horses, and Operator Propelled Devices

### § 4350. Reference to Vehicle Code

The provisions of the Vehicle Code relating to traffic upon highways shall be applicable to Departmental units except as provided by Departmental regulations in Title 14 herein, and such regulations contain the special conditions referred to the Section 21113 of the Vehicle Code.

### §4351. Nature Preserve

No person shall drive, operate, leave, place, land, taxi, takeoff or stop a motor vehicle, motorboat or aircraft within the boundaries of a natural preserve.

### § 4351.1. State Wilderness

(a) Except where it is necessary in an emergency involving the health and safety of persons within the wilderness area, there shall be no use of motorized vehicles, motorized equipment, or motorboats, no landing or hovering of aircraft, no flying of aircraft lower than 2,000 feet above the ground, no other form of mechanical transport, and no permanent structure or installation within any state wilderness, and except to the extent the Director of the Department of Parks and Recreation, or his/her designee makes the following findings in writing ("Findings"):

(1) the use of motorized vehicles, motorized equipment, or motorboats, the landing or hovering of aircraft, or flying of aircraft lower than 2,000 feet above the ground, the use of any other form of mechanical transport, or the placement of a temporary structure or installation must be temporary and meet a minimum management requirement. A minimum management requirement is defined in AB 2945 as "the minimum wilderness management actions that are necessary to administer a wilderness area for the purposes of this Chapter."

(2) the approach proposed to perform the minimum management requirement will make use of the "minimum tool" to best preserve wilderness values under the given circumstances. The "minimum tool" is defined as "the least intrusive tool,

equipment, device, regulation, action, or practice that will achieve the minimum management requirements."

(3) the result of the work will be a condition as near as natural as possible and shall leave no permanent trace or permanent installation or structure.

(b) Upon making the Findings required in section 4351.1 (a), the Director may authorize officers, employees or agents of the Department of Parks and Recreation to occupy and use a particular state wilderness within the California State Park System on a case-by-case basis to conduct a minimum management requirement.

(c) Prior to the Director making the Findings, Department of Parks and Recreation staff shall make a recommendation to the Director on the proposed Findings. The recommendation shall provide sufficient background, analysis, data and research to allow the Director to fairly and objectively evaluate the material considerations for the Findings. The staff recommendation shall include:

(1) an analysis of whether a wilderness management need exists;

(2) a description of the proposed minimum management requirement and the minimum tools to be used, including when, where and the time frame for the proposed action;

(3) the alternative approaches considered, including a discussion of the pros and cons of the alternatives; and

(4) any measures that minimize the effects of the proposed activities.

(d) The process set forth in California Code of Regulations section 4351.1 shall be used only to evaluate and arrive at a project description and a proposed action and shall not replace or supplant any required analysis under the California Environmental Quality Act (CEQA.)

## § 4352. Off-Highway Vehicles Hovercraft and Snowmobiles

No person shall operate an off-highway vehicle, hovercraft or snowmobile except in designated units or portions thereof.

## § 4353. Speed Limits

(a) In no event shall a vehicle be driven at a speed greater than 15 miles per hour in camps, picnic areas, utility areas, or headquarters areas or in areas where the general public assembles;

(b) In all other areas the Department, based on the results of a traffic and engineering survey as defined in Section 627 of the California Vehicle Code may, by order, determine a speed limit, which shall be effective when appropriate signs are placed in accordance with Section 4301(q). All speed limit signs that are placed in accordance with Section 21401 of the California Vehicle Code in place on January 1, 1980, are hereby ratified and confirmed until changed pursuant to engineering and traffic surveys;

(c) In newly acquired or developed areas, the Department may establish a speed limit which will be in effect for a period not exceeding 120 days.

## § 4354. Dangerous Vehicle Operation

No person shall operate any vehicle, motor vehicle, off-highway vehicle, or bicycle negligently or willfully in such a manner as to pursue, harass, endanger, or injure any person or animal.

## § 4355. Vehicle Operation

No person shall operate, drive, use, leave, park, place or stop a vehicle, except on a road or a parking area in any unit or a portion thereof,

(a) or in violation of the condition, limitations, or restrictions in such unit or portion thereof;

(b) or in violation of any regulation contained herein.

## § 4356. Removal of Vehicles and Vessels

Any peace officer having jurisdiction in any unit is authorized to cause the removal of a vehicle from a unit under the provisions of the Vehicle Code including, but not limited to, Section 22659, when such vehicle is parked or left standing in violation of the Vehicle Code or state park regulation contained in Title 14 herein, or has been left standing for 72 hours.

(b) Any peace officer having jurisdiction or any property owned, operated or administered by the Department is authorized to cause the removal of a vessel from such property under the provisions of the Harbors and Navigation Code including, but not limited to, section 675(a)(1) when such vessel is left in violation of the Harbors and Navigation Code or title 14, division 3, chapter 2 of the California Code of Regulations.

## § 4357. Vehicle Operators

(a) All individuals operating vehicles in any units shall be properly licensed.

(b) The Department may authorize certain types of vehicles to be operated in units or portions thereof by other than licensed operators.

## § 4358. Parking

The Department may, by posting of notices (4301(i) and (q)), prohibit or restrict the parking or standing of vehicles in units or portions thereof, during all or certain hours of the day. No such posting of notices shall apply until signs or markings giving adequate notice thereof have been placed.

No person shall block or prevent access to a parking space that they do not lawfully occupy by the parking, standing, or stopping of a vehicle or placement of other objects, or any person. A person may lawfully occupy a parking place only through payment of fees or by being on Department business.

## § 4359. Riding or Pack Animals

(a) No person shall ride, drive, lead, or keep a saddle or pack animal in a unit, or portion thereof, except on such roads, beaches, trails, or areas so designated by the Department.

(b) No saddle or pack animal shall be hitched to any tree, shrub, or structure in any manner that might cause damage thereto.

(c) No person shall ride any animal in a manner that might endanger life or limb of any animal, person or property;

(d) No person shall allow their animal to stand unattended or insecurely tied.

(e) All persons opening a closed gate shall close the same after passing through it.

## § 4360. Bicycles, Operator Propelled Devices

No person shall operate an operator or gravity propelled device in any unit, or portion thereof, when the Department has issued an order prohibiting such activity. The Department may establish speed limits for units or portions thereof in which these devices are used. Speed limits will be posted.

## CHAPTER 3. Concessions

### § 4400. Procedure, Concessions

Within ten (10) days after the Department of Parks and Recreation has issued a notice of intent to award a concession contract for a term in excess of two (2) years following a request for proposal or invitation to bid, any proposer/bidder may file a written statement of protest against awarding of the contract with the Director of the Department. The statement shall be signed by the protestor, shall specify the grounds for the protest and may include a demand for a hearing. A copy of the protest must be served on the Attorney General within the same ten-day period by the proposer/bidder.

If a protest is timely served and a hearing is demanded, or if the Director on his or her own motion orders a hearing, proceedings shall be conducted according to the Administrative Procedure Act, and the protest statement shall be treated as a statement of issues. Any recommendation or decision of the hearing officer shall be submitted to the Director for approval, adoption, modification, disapproval or other interlocutory or final action.

If a hearing is not so demanded or ordered, the action of the Director shall be final.

## CHAPTER 4. Camping

### § 4450. Sections Applicable Only to State Operated Units

All Sections in Chapter 4 shall apply only to units operated by the Department of Parks and Recreation.

### § 4451. Camping

(a) No person shall camp, as defined in Section 4301(U), in any unit except in areas designated for that purpose.

### § 4452. Number Occupying Campsites

(a) The number of vehicles and persons occupying a campsite shall not exceed two vehicles and eight persons;

(b) the Department may authorize a greater or lesser number when facilities so warrant.

### § 4453. Camping Fees Due

(a) Fees for the use of camping facilities are due and payable daily.

(b) The fee covers use of camping facilities until the vacating time or 12:00 noon, of the following day.

### § 4454. Occupancy

(a) A campsite is considered occupied when it is being used or has been reserved and the campsite is officially posted or marked "occupied" either at the campsite or entrance station.

(b) No person or persons by or for whom the daily use fee has been paid and the guests and invitees of such person or persons may occupy the campsite.

(c) No person not authorized to occupy a campsite pursuant to subparagraph (a) and (b) of this section or pursuant to law, shall take or maintain possession or arrange camping equipment or park or stand a vehicle in a campsite marked occupied.

### § 4455. Camping Time Limits

(a) General. Occupancy by the same persons, equipment, or vehicles of any camping facility is limited to a total of 30 days in any calendar year in that unit. The Department may establish shorter or longer limits of occupancy.

(b) Shorter Limits. When the department has established shorter seasonal limits, no person (or persons) who have occupied a campsite for the established limit may reregister in the unit until the expiration of forth-eight (48) hours, from 12:00 noon of the checkout day to 12:00 noon of the second day following. Upon expiration of the established limit, the registered camper shall vacate the campsite of all persons, vehicles and equipment.

### § 4456. Vacating

Occupants shall vacate the campsite by removing their person, vehicles and property therefrom prior to 12:00 noon if applicable use fee has not been paid or if time limit for occupancy has expired.

### § 4457. One-Night Camping in Day Use Areas

The district superintendent may permit camping for one night only in a day use area or a portion thereof. Persons occupying a site for such camping shall vacate the same by 9 a.m. the following morning, shall be subject to such fees and vehicle limitations as the

Department may establish, and shall be limited to the use of only such portions of the unit as the Department shall specify.

### § 4458. Nighttime Closure

No person shall be present in any campground between the hours of 10 p.m. and 6 a.m. except as the lawfully registered occupant or for the lawful purpose of camping when campsites are available.

## CHAPTER 6. Provisions Limited to Specific Units

### § 4609. Oceano Dunes State Vehicular Recreation Area

(a) All vehicles may be operated only as follows:

(1) The boundaries of vehicle use shall be designated by the District Superintendent as shown on a map posted at the unit.

(2) The towing by a vehicle of any object other than another vehicle or trailer is prohibited.

(3) All Off-Highway vehicles registered under California Vehicle Code Section 38010 or other vehicles primarily operated for Off-Highway Vehicle activities shall be equipped with a whip, which is any pole, rod or antenna, that is securely mounted on the vehicle and which extends at least eight (8) feet from the surface of the ground when the vehicle is stopped.

When the vehicle is stopped, the whip shall be capable of standing upright when supporting the weight of any attached flags.

At least one whip attached to each vehicle shall have a solid red or orange colored safety flag with a minimum size of six (6) inches by twelve (12) inches and be attached within ten (10) inches of the top of the whip. Flags may be of pennant, triangle, square, or rectangular shape. Club or other flags may be mounted below the safety flag or on a second whip.

(4) When a vehicle is operated in the dunes area, which is that land area extending from the first line of sand dunes inland outside Pismo Dunes Natural Preserve, the vehicle shall have additional equipment as follows:

(A) Each vehicle, except motorcycles and all-terrain vehicles (ATVs) shall be equipped with adequate roll bars or roof structure of sufficient strength to support the weight of the vehicle and shall have a secure seat and seat belt

for the vehicle operator and each passenger. Seat belts shall be as specified in the California Vehicle Code.

(B) Each vehicle shall be equipped with a whip as described in section 4609(a)(3).

(b) No person shall operate any vehicle at a greater speed or in any other manner than is safe or prudent having regard for weather, visibility, traffic conditions, presence of pedestrians, and the nature of the terrain on which the vehicle is being operated, and in no event at a speed or in a manner which endangers the health or safety of persons or property.

(c) No person shall operate a vehicle in a manner which endangers the health or safety of any occupant under the age of eighteen.

(d) No person shall allow any person under the age of eighteen to operate a vehicle in a situation where his or her health or safety is endangered as a result of the operation of the vehicle.

## § 4610. Drivers' Licenses, Off-Highway Units

Unlicensed drivers may operate a vehicle in off-highway division units as follows:

(a) The unlicensed driver shall be accompanied and supervised at all times by a licensed driver who must be in, on, or about the vehicle being operated. The licensed driver supervising shall supervise not more than three (3) unlicensed drivers at any one time.

(b) The unlicensed driver must be capable of operating all vehicle control mechanisms and is prohibited from operating a vehicle during night-time hours or outside the designated off-highway vehicle area.

## § 4611. Rockhounding

(a) Rockhounding is authorized by Section 5001.65 of the Public Resources Code.

(b) Units and portions thereof (o)pen for Rockhounding will be posted in accordance with Section 4301(i).

(c) Commercial Use.

Rocks or mineral specimens gathered within a unit may not be sold or used commercially for the production of profit.

(d) Maximum Take.

One person may gather, in one day in one unit, not more than 15 pounds of mineralogical material or not more than one specimen plus 15 pounds of mineralogical material.

(e) Use of Tools.

Tools, except goldpans to be used in gold panning, may not be used in rockhounding within a unit.

(f) Areas for Swimming and Boating.

In state recreation areas rockhounding may not be practiced in areas designated for swimming or for boat launching.

(g) Areas Limited for Collecting.

In state recreation areas rockhounding is limited to beaches which lie within the jurisdiction of the Department and within the wave action zone on lakes, bays, reservoirs, or on the ocean, and to the beaches or gravel bars which are subject to annual flooding on streams.

(h) Indian Artifacts.

Rockhounding in a unit specifically does not include the gathering of Indian arrowheads, Indian stone tools, or other archeological specimens, even when such specimens may be found occurring naturally on the surface.

(i) Panning for Gold.

Panning for gold is considered to be "rockhounding" as the term is applied in the Department. The goldpan is the only exception permitted to the exclusion of tools from rockhounding in a unit as provided in Section 4610.5. Muddy water from panning operations must not be visible more than 20 feet from the panning operation.

## CHAPTER 7. Aquatic and Boating

### § 4650. Swimming

No person shall swim in areas prohibited for swimming. Such areas shall be designated by the posting of notices.

### § 4651. Swimming Areas

No person shall operate any boat or ride, pull or tow any aquaplane or water-ski or any other device within any designated swimming area or within fifty (50) feet of the existing boundary of any designated swimming area or boundaries which are marked by buoys placed fifty (50) feet apart and the area posted on shore by signs.

### § 4652. Floating Devices

No person shall use, operate, or bring into an open zone, floating devices such as rubber crafts, surfboards, surfmats, buoys, kites, experimental crafts, or any other floating device other than those approved boats, aquaplanes or water-skis and related equipment. The Department may permit the use of certain unauthorized floating devices in open zones on occasions where traffic is such as to render them safe and during special events, games, tests, or experiments.

### § 4653. False Drowning Alarm

No person shall give or transmit a false signal or a false alarm of drowning in any manner or mode.

### § 4654. Surf-Riding

No person shall engage in surf-riding in an area where so prohibited and posted.

### §4656. Diving

No person shall dive in any unit of the State Park System. As used in this section, dive means to plunge from any height, especially, but not limited to, head first into water.

### § 4657. Launching, Areas

No person shall beach launch or beach a boat or weigh anchor or cast off when the Department has by posting an order prohibiting the same. Such orders shall prescribe the time and area in which effective.

### § 4658. Boat Speed Limits

No person shall operate a boat in a unit at speeds in excess of that posted.

## § 4659. Operating Boats During Nighttime

Where night boating is authorized, no person shall operate a boat at speeds in excess of five (5) nautical miles per hour.

## § 4660. Vessels

(a) No person shall beach, land, launch, moor, dock or berth a vessel, boat, or any other object overnight except in areas so designated and posted by the area manager.

(b) The Department may, by posting of an order, specify locations, conditions, and limitations for the beaching, landing, launching, mooring, docking, or berthing of a vessel, boat, or any other object. No such posting of notice shall apply until signs or markings giving notice thereof have been placed.

(c) Beached or abandoned vessels, boats, or any other objects are to be removed by the registered owner from Departmental property within twenty-four (24) hours of notification. The last registered owner of record is responsible and is thereby liable for the cost of removal and disposition of the vessel, boat, or other object beached or abandoned.

## § 4661. Disposal of Waste from Boats

Any boat must be so constructed or equipped that all wastes, including but not limited to shower water and human waste, are discharged into a holding tank. Such wastes shall only be discharged in onshore disposal facilities.

## § 4662. Inspections.

(a) A State Park Peace Officer or Peace officer with concurrent jurisdiction may inspect any vessel or boat at any time for compliance with all applicable laws, rules, and/or regulations. Any person who refuses to allow such inspection shall immediately remove his/her vessel from the waters of the state park system.

(b) No boat shall remain launched or in continuous use in the state park system for more than 30 days except by concession granted.

## § 4664. Underwater Activities.

No person shall:

(a) Enter an underwater park unit or scenic or scientific reserve other than through an established water entry point.

(b) As used in this section, underwater activities shall mean engaging in activities beneath the surface of the water.

## CHAPTER 10. Classification of Park Units

### § 4753. State Recreation Units.

In the interest of the public the units listed below in the State Park System and the State Vehicular Recreation Area and Trail System are classified in the categories named, as provided in Section 5019.56 of the Public Resources Code, provided, however, that there is reserved the power to repeal, amend, or modify this section as may from time to time hereafter be necessary and proper:

(a) State Recreation Areas

Admiral William Standley State Recreation Area
Auburn State Recreation Area
Austin Creek State Recreation Area
Baldwin Hills State Recreation Area
Benbow Lake State Recreation Area
Benicia State Recreation Area
Bethany Reservoir State Recreation Area
Brannan Island State Recreation Area
Candlestick Point State Recreation Area
Castaic Lake State Recreation Area
Colusa-Sacramento River State Recreation Area
Durham Ferry State Recreation Area
Exposition Multi-Cultural Center State Recreation Area
Folsom Lake State Recreation Area
Franks Tract State Recreation Area
Fremont Ford State Recreation Area
George H. Hatfield State Recreation Area
Harry A. Merlo State Recreation Area
Kings Beach State Recreation Area
Lake Del Valle State Recreation Area
Lake Elsinore State Recreation Area
Lake Oroville State Recreation Area
Lake Perris State Recreation Area
McConnell State Recreation Area
Millerton Lake State Recreation Area
Otterbein State Recreation Area
Picacho State Recreation Area
Providence Mountains State Recreation Area
Pyramid Lake State Recreation Area

Salton Sea State Recreation Area
San Luis Reservoir State Recreation Area (including Los Banos Creek)
Silverwood Lake State Recreation Area
Standish-Hickey State Recreation Area
Tahoe State Recreation Area (including William B. Layton Park)
Turlock Lake State Recreation Area
Willowbrook State Recreation Area
Woodson Bridge State Recreation Area

(b) Underwater Recreation Areas. (Reserved)

(c) State Beaches

Asilomar State Beach
Atascadero State Beach
Avila State Beach
Bean Hollow State Beach
Bolsa Chica State Beach
Cardiff State Beach
Carlsbad State Beach
Carmel River State Beach
Carpinteria State Beach
Caspar Headlands State Beach
Cayucos State Beach
Corona del Mar State Beach
Dan Blocker State Beach
Dockweiler State Beach
Doheny State Beach
El Capitan State Beach
El Matador State Beach
El Pescador State Beach
Emma Wood State Beach
Gray Whale Cove State Beach
Half Moon Bay State Beach
Huntington State Beach
La Piedra State Beach
Las Tunas State Beach
Leo Carrillo State Beach
Leucadia State Beach
Lighthouse Field State Beach
Little River State Beach
Malibu Lagoon State Beach
Manchester State Beach
Mandalay State Beach
Manhattan State Beach
Manresa State Beach

McGrath State Beach
Montara State Beach
Monterey State Beach
Moonlight State Beach
Morro Strand State Beach
Moss Landing State Beach
Natural Bridges State Beach
New Brighton State Beach
Oxnard State Beach
Pelican State Beach
Pescadero State Beach
Pismo State Beach
Point Dume State Beach
Point Sal State Beach
Pomponio State Beach
Redondo State Beach
Refugio State Beach
Robert W. Crown Memorial State Beach
Royal Palms State Beach
Salinas River State Beach
San Buenaventura State Beach
San Clemente State Beach
San Elijo State Beach
San Gregorio State Beach
San Onofre State Beach
San Simeon State Beach
Santa Monica State Beach (including Pacific Ocean Park)
Seacliff State Beach
Silver Strand State Beach
Sonoma Coast State Beach
South Carlsbad State Beach
Sunset State Beach
Thornton State Beach
Topanga State Beach
Torrey Pines State Beach
Trinidad State Beach
Twin Lakes State Beach
Westport-Union Landing State Beach
Will Rogers State Beach
William Randolph Hearst Memorial State Beach
Zmudowski State Beach

(d) Wayside Campgrounds

Paul M. Dimmick Wayside Campground
Reynolds Wayside Campground

(e) State Vehicular Recreation Areas[12]

Carnegie State Vehicular Recreation Area
Clay Pit State Vehicular Recreation Area
Hollister Hills State Vehicular Recreation Area
Hungry Valley State Vehicular Recreation Area
Ocotillo Wells State Vehicular Recreation Area
Oceano Dunes State Vehicular Recreation Area[13]

(f) State Urban Recreation Areas

Seccombe Lake State Urban Recreation Area

[12] Note: The Code has not been updated to include Prairie City State Vehicular Recreation Area and Heber Dunes State Vehicular Recreation Area.

[13] Note: The Code has not been updated to include the name change from Pismo Dunes State Vehicular Recreation Area to Oceano Dunes State Vehicular Recreation Area.

## ADDENDUM A
**(Revised 1/13/15)**

## OHV Trust Fund Loans, Transfers and Redirects

| FY Action Occurs | Amount of Loan, Location, Pay Back Date | Language of Budget Act (reference) |
|---|---|---|
| 1971/72 | **Creation of the Off-Highway Vehicle Fund**<br>**Sections 38000-38300 California Vehicle Code** | Section 38000 of the California Vehicle Code creating the Off-Highway Motor Vehicle Law.<br>38000. This division may be cited as the Chappie-Z'berg Off-Highway Motor Vehicle Law of 1971.<br>**(AB 2342, Chapter 1816, Statutes 1971)** |
| 2003/04 | **Amendment to Section 38001** | 38001. (a) Except as otherwise provided, this division applies to off-highway motor vehicles, as defined in Section 38006, on lands, other than a highway, that are open and accessible to the public, including any land acquired, developed, operated, or maintained, in whole or in part, with money from the Off-Highway Vehicle Trust Fund, except private lands under the immediate control of the owner or his or her agent where permission is required and has been granted to operate a motor vehicle. For purposes of this division, the term "highway" does not include fire trails, logging roads, service roads regardless of surface composition, or other roughly graded trails and roads upon which vehicular travel by the public is permitted.<br>**(AB 2274, Chapter 563, Statutes 2002)** |
| 1982/83 | **$8.5 Million Transfer to General Fund** | $8,500,000 transfer to the General Fund from the OHV Fund.<br>**(Chapter 115, Statutes 1982)** |

| FY Action Occurs | Amount of Loan, Location, Pay Back Date | Language of Budget Act (reference) |
|---|---|---|
| 1982/83 | **$150,000 Loan** | Loan to the 51st District Agricultural Association to produce an OHV fair at the Hungry Valley SVRA.<br>**(Chapter 174, Statutes 1982)** |
| 1983/84 | **$13 Million Transfer to General Fund** | $13,000,000 transfer to the General Fund from the OHV Fund.<br>**(Chapter 10, Statutes 1983)** |
| 1983/84 | **$8.5 Million and $13 Million Transfers Redefined as Loans** | The $8,500,000 and $13,000,000 transfers to the General Fund from the OHV Fund have been redefined as "loans" subject to repayment when the OHV Fund "… has become, or is about to become, encumbered in excess of the monies available in the fund…"<br>**(Chapter 1007, Statutes 1983)** |
| 1988/89 | **$813,000 Transfer to General Fund** | $813,000 transfer to the General Fund from the OHV Fund.<br>**(Budget Act of 1988/89)** |
| 1990/91 | **$3 million Loan to Fish and Game Preservation Fund**<br>**Loan Repaid in FY 1996/97 and 1997/98** | $3,000,000 loan (with interest) to the Fish and Game Preservation Fund from the OHV Fund. Repayment due: one-half in 1992; one-half in 1993.<br>**(Chapter 1681, Statutes 1990)** |

| FY Action Occurs | Amount of Loan, Location, Pay Back Date | Language of Budget Act (reference) |
|---|---|---|
| 1992/93 | **$10,444,000 Transfer to SPRF and General Fund** | $8,900,000 transfer to the State Park and Recreation Fund (SPRF) from the OHV Fund.<br>$1,544,000 transfer to the General Fund from interest income earned by the OHV Fund.<br>**(Chapter 979, Statutes 1992)** |
| 1993/94 | **$15,653,000 Transfer to SPRF and General Fund** | $8,900,000 transfer to SPRF from the OHV Fund.<br>$2,512,000 transfer to SPRF from the Motor Vehicle Fuel account (funds were transferred "in lieu" [before] being deposited in the OHV Fund).<br>$4,241,000 transfer to the General Fund from the OHV Fund.<br>**(Chapter 55, Statutes 1993)** |
| 1994/95 | **OHV Fund Renamed OHV Trust Fund**<br>**Transfers to General Fund to be Reimbursed Within Two FYs of Transfer** | "An act to amend Sections 5090.06 and 5090.61 of the Public Resources Code, to amend Sections 8352.6 and 8352.7 of the Revenue and Taxation Code, and to amend Sections 38225 and 38235 of, and to add Section 38225.4 to, the Vehicle Code, relating to vehicles."<br>SEC. 5. Section 38225 of the California Vehicle Code is amended to read:<br>38225 (d) Any money temporarily transferred by the Legislature from the Off-Highway Vehicle Trust Fund to the General Fund shall be reimbursed, without interest, by the Legislature within two fiscal years of the transfer.<br>**(AB 3717, Chapter 1004, Statutes 1994)** |

| FY Action Occurs | Amount of Loan, Location, Pay Back Date | Language of Budget Act (reference) |
|---|---|---|
| 1994/95 | **Fish and Game Loan Repayment Extended**<br>**DUE 1996 and 1997**<br>**Loan Repaid in FY 1996/97 AND 1997/98** | Repayment of the $3,000,000 loan to the Fish and Game Preservation Fund extended to 1996 and 1997.<br>**(Chapter 139, Statutes 1994)** |
| 1994/95 | **$4,522,000 Transfer to SPRF** | $1,959,000 transfer to SPRF from the OHV Fund.<br>$2,563,000 transfer to SPRF from the Motor Vehicle Fuel account (funds were transferred "in lieu" [before] being deposited in the OHV Fund).<br>**(1994/95 Budget Act)** |
| 1998 | **Counts v. Wilson Lawsuit Awarded $21,500,000 be returned to the OHV Trust Fund** | Counts v. Wilson: $21,500,000 to be returned to the OHV Trust Fund ($8,500,000 transfer to General Fund in 1982 [Chapter 115, Statutes 1982] and $13,000,000 transfer to General Fund in 1983 [Chapter 10, Statutes 1983].<br>The Judge confirmed that the State had never registered the loans on the books in order to track and repay them. The Department of Finance acknowledged this in a Budget Briefing dated 11/5/1998 and "recommended that a process be documented for requesting and tracking the $21,500,000." |

| FY Action Occurs | Amount of Loan, Location, Pay Back Date | Language of Budget Act (reference) |
|---|---|---|
| 1999/00 | **$150,000 Loan Reappropriation** | $150,000 loan reappropriation to the 51st District Agricultural Association to "produce an OHV fair at Hungry Valley SVRA."<br>**(Chapter 1005, Chapter 172, Statutes 1999)** |
| 2008/09 | **$90 Million Loan to General Fund DUE: June 30, 2013** | SEC. 17. Item 3790-011-0263 is added to Section 2.00 of the Budget Act of 2008, to read:<br>3790-011-0263 – For transfer by the Controller, upon order of the Director of Finance, from the Off-Highway Vehicle Trust Fund to the General Fund … (90,000,000)<br>Provisions:<br>1. The amount transferred in this item is a loan to the General Fund. The repayment shall be made so as to ensure that the programs supported by the Off-Highway Vehicle Trust Fund are not adversely affected by the loan, but no later than June 30, 2013.<br>**(SBX3_2, Chapter 2, Statutes 2009)** |
| 2013/14 | **$90 Million Loan DUE date extended to June 30, 2017** | 3790-401 – Notwithstanding Provision 1 of Item 3790-011-0263, Budget Act of 2008, as added by Chapter 2 of the 2009-10 Third Extraordinary Session, and amended by item 3790-401, Budget Act of 2012 (Chs.21 and 29, Stats. 2012), the $90,000,000 loan to the General Fund will be repaid beginning in the 2016-17 fiscal year upon order of the Director of Finance.<br>**(SB 852, Chapter 25, Statutes of 2014)** |

| FY Action Occurs | Amount of Loan, Location, Pay Back Date | Language of Budget Act (reference) |
|---|---|---|
| 2009/10 | **$22 Million Loan to General Fund DUE: June 30, 2012***<br><br>***VC 38225(d). Any money temporarily transferred by the Legislature from the Off-Highway Vehicle Trust Fund to the General Fund shall be reimbursed, without interest, by the Legislature within two fiscal years of the transfer.** | SEC. 227. Item 3790-011-0263 is added to Section 2.00 of the Budget Act of 2009, to read:<br><br>3790-011-0263 – For transfer by the Controller, upon order of the Director of Finance, from the Off-Highway Vehicle Trust fund to the General Fund … (22,000,000)<br><br>Provisions:<br><br>1. The amount transferred in this item is a loan to the General Fund.<br><br>**(ABX4, Chapter 1, Statutes of 2010)** |

| FY Action Occurs | Amount of Loan, Location, Pay Back Date | Language of Budget Act (reference) |
|---|---|---|
| 2010/11 | **$21 Million Loan to General Fund**<br>**DUE: June 30, 2014** | SEC. 12. Item 3790-011-0263 is added to Section 2.00 of the Budget Act of 2010, to read:<br>3790-011-0263 – For transfer by the Controller, upon order of the Director of Finance, from the Off-Highway Vehicle Trust Fund to the General Fund as a loan … (21,000,000)<br>Provisions:<br>1. The Director of Finance may transfer up to $21,000,000 as a loan to the General Fund, which shall be repaid by June 30, 2014. The Director of Finance shall order the repayment of all or a portion of this loan if he or she determines that either of the following circumstances exists: (a) the fund or account from which the loan was made has a need for the moneys, or (b) there is not longer a need for the moneys in the fund or account that received the loan. This loan shall be repaid with interest calculated at the rate earned by the Pooled Money Investment Account at the time of the transfer.<br>**(SB 84, Chapter 13, Statutes of 2011)** |
| 2014/15<br>2015/16 | **DUE date extended to June 30, 2016**<br>**$10 Million Due**<br>**$11 Million Due**[14] | 3790-401--Notwithstanding Provision 1 of Item 3790-011-0263, Budget Act of 2010, as added by Chapter 13 of the Statutes of 2011, the $21,000,000 loan to the General Fund will be repaid in the 2015-16 fiscal year upon order of the Director of Finance.<br>**(AB 110, Chapter 20, Statutes of 2013)** |

[14] Based on the Governor's January 10, 2015 proposed budget.

| FY Action Occurs | Amount of Loan, Location, Pay Back Date | Language of Budget Act (reference) |
|---|---|---|
| 2011/12 | **$10 Million Redirect from MVFA to General Fund**<br><br>**Ongoing – No Sunset Date.** | SEC. 27. Section 8352.6 of the Revenue and Taxation Code is amended to read:<br><br>8352.6. (a)(1) Subject to Section 8352.1, on the first day of every month, there shall be transferred from moneys deposited to the credit of the Motor Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund created by Section 38225 of the Vehicle Code an amount attributable to taxes imposed upon distributions of motor vehicle fuel used in the operation of motor vehicles off highway and for which a refund has not been claimed. Transfers made pursuant to this section shall be made prior to transfers pursuant to Section 8352.2.<br>(2) The Controller shall withhold eight hundred thirty-three thousand dollars ($833,000) from this monthly transfer, and transfer that amount to the General Fund.<br><br>**(AB 95, Chapter 2, Statutes of 2011)** |

| FY Action Occurs | Amount of Loan, Location, Pay Back Date | Language of Budget Act (reference) |
|---|---|---|
| 2012/13 | **$7 Million Redirect from MVFA to SPRF**<br><br>**Transfer Complete December 2012** | I am signing Senate Bill 1018 with the following objection:<br><br>Section 127. I am reducing the amount for transfer from the Motor Vehicle Fuel Account to the State Parks and Recreation Fund from $21,000,000 to $7,000,000. The remaining $14,000,000 will be transferred to the Off-Highway Vehicle Trust Fund. I am sustaining $7,000,000 of the one-time transfer and, in conjunction with the other amounts I am sustaining for the Department of Parks and Recreation (Department), these amounts will provide the funding needed to allow the Department to address its most critical operating needs.<br><br>EDMUND G. BROWN JR.<br><br>Original language from SB1018:<br><br>SEC. 127. (a) The Controller shall transfer the sum of twenty-one million dollars ($21,000,000) on July 1, 2012, to the Department of Parks and Recreation Fund from moneys in the Motor Vehicle Fuel Account in the State Transportation fund that would otherwise be tranferred into the Off-Highway Vehicle Trust Fund pursuant to Section 8352.6 of the Revenue and Taxation Code. Moneys received from off-highway vehicle registration fees shall not be impacted by this section. (b) It is the intent of the Legislature that the Off-Highway Vehicle Trust Fund appropriations are not affected by the transfer in subdivision (a).<br><br>**(SB 1018, Chapter 39, Statutes 2012)** |

| FY Action Occurs | Amount of Loan, Location, Pay Back Date | Language of Budget Act (reference) |
|---|---|---|
| 2012/13 | **Fuel Tax Swap 2010**<br>**This has no fiscal impact on the OHMVR Division. This action reverses unintended revenue previously distributed to the OHV Trust Fund.** | "An act to amend Section 10140 of the Public Contract Code, to amend Sections 8352.3, 8352.4, 8352.5, and 8352.6 of the Revenue and Taxation Code, to amend Section 2103 of the Streets and Highways Code, and to amend Section 9400.4 of, and to add Section 42272 to, the Vehicle Code, relating to transportation, and making an appropriation therefor, to take effect immediately."<br>SEC. 5. Section 8352.6 of the Revenue and Taxation Code is amended to read:<br>8352.6. (a) (1) Subject to Section 8352.1, and except as otherwise provided in paragraphs (2) and (3), on the first day of every month, there shall be transferred from moneys deposited to the credit of the Motor Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund created by Section 38225 of the Vehicle Code an amount attributable to taxes imposed upon distributions of motor vehicle fuel used in the operation of motor vehicles off highway and for which a refund has not been claimed. Transfers made pursuant to this section shall be made prior to transfers pursuant to Section 8352.2.<br>(2) From July 1, 2012, until June 30, 2015, inclusive, the revenues attributable to the taxes imposed pursuant to subdivision (b) of Section 7360 and Section 7361.1 and otherwise to be deposited in the Off-Highway Vehicle Trust Fund pursuant to paragraph (1) shall instead be transferred to the General Fund. The revenues attributable to the taxes imposed pursuant to subdivision (b) of Section 7360 and Section 7361.1 that were deposited in the Off-Highway Vehicle Trust Fund in the 2010-11 and 2011-12 fiscal years shall be transferred to the General Fund. Commencing July 1, 2015, the revenues attributable to the taxes imposed pursuant to subdivision (b) of Section 7360 and Section 7361.1 and otherwise to be deposited in the Off-Highway Vehicle Trust Fund pursuant |

| FY Action Occurs | Amount of Loan, Location, Pay Back Date | Language of Budget Act (reference) |
|---|---|---|
| | | to paragraph (1) shall instead be transferred to the Highway Users Tax Account in the State Transportation Fund, for distribution pursuant to subdivision (a) of Section 2103 of the Streets and Highways Code.<br>(3) The Controller shall withhold eight hundred thirty-three thousand dollars ($833,000) from the monthly transfer to the Off-Highway Vehicle Trust Fund pursuant to paragraph (1), and transfer that amount to the General Fund.<br>(b) The amount transferred to the Off-Highway Vehicle Trust Fund pursuant to paragraph (1) of subdivision (a), as a percentage of the Motor Vehicle Fuel Account, shall be equal to the percentage transferred in the 2006-07 fiscal year. Every five years, starting in the 2013-14 fiscal year, the percentage transferred may be adjusted by the Department of Transportation in cooperation with the Department of Parks and Recreation and the Department of Motor Vehicles. Adjustments shall be based on, but not limited to, the changes in the following factors since the 2006-07 fiscal year or the last adjustment, whichever is more recent:<br>(1) The number of vehicles registered as off-highway motor vehicles as required by Division 16.5 (commencing with Section 38000) of the Vehicle Code.<br>(2) The number of registered street-legal vehicles that are anticipated to be used off highway, including four-wheel drive vehicles, all-wheel drive vehicles, and dual-sport motorcycles.<br>(3) Attendance at the state vehicular recreation areas.<br>(4) Off-highway recreation use on federal lands as indicated by the United States Forest Service's National Visitor Use Monitoring and the United States Bureau of Land Management's Recreation Management Information System. |

| FY Action Occurs | Amount of Loan, Location, Pay Back Date | Language of Budget Act (reference) |
|---|---|---|
| | | (c) It is the intent of the Legislature that transfers from the Motor Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund should reflect the full range of motorized vehicle use off highway for both motorized recreation and motorized off-road access to other recreation opportunities. Therefore, the Legislature finds that the fuel tax baseline established in subdivision (b), attributable to off-highway estimates of use as of the 2006-07 fiscal year, accounts for the three categories of vehicles that have been found over the years to be users of fuel for off-highway motorized recreation or motorized access to non-motorized recreational pursuits. These three categories are registered off-highway motorized vehicles, registered street-legal motorized vehicles used off highway, and unregistered off-highway motorized vehicles.<br><br>(d) It is the intent of the Legislature that the off-highway motor vehicle recreational use to be determined by the Department of Transportation pursuant to paragraph (2) of subdivision (b) be that usage by vehicles subject to registration under Division 3 (commencing with Section 4000) of the Vehicle Code, for recreation or the pursuit of recreation on surfaces where the use of vehicles registered under Division 16.5 (commencing with Section 38000) of the Vehicle Code may occur.<br><br>**(AB 1465, Chapter 22, Statutes 2012)** |