

AMENDED IN ASSEMBLY SEPTEMBER 6, 2007

AMENDED IN ASSEMBLY AUGUST 31, 2007

AMENDED IN ASSEMBLY JULY 9, 2007

AMENDED IN SENATE MAY 21, 2007

AMENDED IN SENATE APRIL 17, 2007

AMENDED IN SENATE APRIL 9, 2007

SENATE BILL

No. 742

Introduced by Senator Steinberg
(Coauthor: Assembly Member Wolk)

February 23, 2007

An act to amend Sections 5090.02, 5090.15, 5090.24, 5090.32, 5090.53, 5090.70, 5091.15, and 5091.25 of, to repeal Sections 5090.23, 5090.51, 5090.63, and 5090.64 of, and to repeal and add Sections 5090.34, 5090.50, and 5090.61 of, the Public Resources Code, to amend Section 8352.8 of, to repeal Section 8352.7 of, and to repeal and add Section 8352.6 of, the Revenue and Taxation Code, and to amend Sections 38165, ~~38225~~, and 38301 of, *and to amend and repeal Section 38225 of*, the Vehicle Code, relating to off-highway recreation.

LEGISLATIVE COUNSEL'S DIGEST

SB 742, as amended, Steinberg. Off-highway motor vehicle recreation.

(1) The Off-Highway Motor Vehicle Recreation Act of 2003 (act), provides for the acquisition, operation, and funding of state off-highway vehicular recreation areas and trails. These provisions are to be repealed on January 1, 2008.

This bill would extend the act to January 1, 2018, would delete certain obsolete provisions, and would include certain legislative findings and declarations.

(2) The act establishes the Off-Highway Motor Vehicle Recreation Commission, consisting of 7 members, with 3 of the members appointed by the Governor.

This bill would increase the membership of the commission to 9 members, with 5 members appointed by the Governor, subject to Senate confirmation.

(3) The act imposes certain duties and responsibilities on the Off-Highway Motor Vehicle Recreation Commission and the Division of Off-Highway Motor Vehicle Recreation with respect to off-highway recreation.

This bill would revise and recast some of those duties and responsibilities.

(4) The act requires the division to publish and periodically update a guidebook relating to off-highway recreation and requires that the guidebook contain specified information.

This bill, instead, would require the division, in cooperation with the commission, to make available on the division's Internet Web site information relating to off-highway motor vehicle recreation. The bill specifies certain information that, at a minimum, the Web site shall include.

The bill also would require the division to create a guidebook of federal, state, and local off-highway vehicle recreation opportunities and that the guidebook contain specified information. The bill would require the division to work with retailers of off-highway motor vehicles and off-highway recreation associations to distribute the guidebook and to increase awareness of the resources available on the division's Internet Web site.

(5) Under the act, grants may be made to cities, counties, and districts, and cooperative agreements may be entered into with federal agencies or federally recognized Native American tribes.

This bill would require the division to develop and implement a grant and cooperative agreement program to support specified activities related to off-highway motor vehicles and programs involving off-highway motor vehicle safety or education. The bill would provide guidelines to implement this program. The bill would specify percentages of the total amount appropriated by the Legislature to be

awarded for specified purposes. The bill would make other changes with respect to those grants and cooperative agreements.

This bill would require that law enforcement grants and cooperative agreements be allocated to local and federal law enforcement entities for personnel and related equipment, with the amount of the grant or cooperative agreement being proportional to the off-highway motor vehicle enforcement needs under each entity's jurisdiction. The bill would require the division to develop a method to determine the law enforcement needs for each applicant and eligibility guidelines for law enforcement projects. The bill would require the department to audit law enforcement entities that receive grant money, considering whether the law enforcement entity has spent the grant money in accordance with its application, at least once every 5 years.

(6) The act provides for certain allocations, for specified purposes, to the division from the Conservation and Enforcement Services Account (the enforcement account), upon appropriation by the Legislature.

This bill would revise the purposes for which those funds allocated to the division are required to be expended upon appropriation by the Legislature.

(7) Existing law prohibits a person from parking a vehicle, during a specified portion of the year, in a designated area, unless that vehicle displays a SNO-PARK parking permit issued by the Department of Parks and Recreation. The department is required to determine the amount of the fee for the issuance of the parking permit, subject to specified limits on the amounts of the fee. Existing law requires the proceeds from the sale of SNO-PARK parking permits to be paid to the credit of the Winter Recreation Fund. An amount not to exceed 5% of total funds appropriated is required to be available to be expended for specified administrative costs.

This bill would delete the specified limits on the amounts of the fee, and would delete the provision concerning administrative costs.

(8) Existing law requires certain moneys, the amount of which is determined by specified formulas, in the Motor Vehicle Fuel Account (the fuel account) attributable to taxes imposed upon distribution of motor vehicle fuel related to specified off-highway motor vehicles and off-highway vehicle activities, to be transferred from that account on the first day of every month to the fund or the enforcement account. The money in the fund and the enforcement account is required to be used, upon appropriation, for specified purposes related to off-highway motor vehicle recreation.

This bill would repeal those provisions requiring the transfer of that money from the fuel account, and, instead, would require certain money in the fuel account to be transferred to the fund according to a specified calculation that the Department of Transportation, in cooperation with the Department of Parks and Recreation and the Department of Motor Vehicles, would be authorized to adjust every 5 years, taking into account specified factors.

(9) Existing law requires the Department of Motor Vehicles to determine the size, color, and letters or numbers of the plate or device issued to an off-highway motor vehicle for identification purposes.

This bill would require the department, in the design of the identification plate or device, to make the identification number the most prominent feature of the device.

The bill would require the department, by July 1, 2009, in conjunction with the Division of Off-Highway Motor Vehicle Recreation of the Department of Parks and Recreation, to 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. The report would be required to, at a minimum, examine the benefits and challenges of certain options related to that identification. The department and the division would be required, in preparing the report, to work with vehicle manufacturers to evaluate feasibility.

(10) Existing law, until January 1, 2008, generally imposes a service fee of \$7 for the issuance or renewal of identification of off-highway motor vehicles subject to identification, and a special fee of \$8 that is required to be paid at the time of payment of the service fee. Until January 1, 2008, existing law requires specified moneys, including that special fee, the moneys transferred to the fund as described in (8) above, and specified use fees for state vehicular recreation areas, to be deposited in the fund. On and after January 1, 2008, existing law repeals those provisions, except for the imposition of the \$7 service fee.

This bill, on and after January 1, 2008, would impose a special fee of \$33 that would be required to be paid at the time of payment of the service fee. The bill would require the special fees, moneys transferred to the fund from the fuel account pursuant to the bill, and specified use fees for state vehicular recreation areas to be deposited in the fund. The bill would require, upon appropriation, moneys in the fund to be allocated for specified purposes related to off-highway recreation. *The*

bill would provide that these provisions shall remain in effect until January 1, 2018, and as of that date are repealed.

(11) Under existing law, 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.

This bill would provide that a person who operates a motor vehicle in an area closed to that vehicle is guilty of a public offense, and would assess monetary penalties for the violation. By creating a new crime, the bill would impose a state-mandated local program.

(12) This bill would make other changes related to off-highway recreation.

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

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

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

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

- 1 SECTION 1. Section 5090.02 of the Public Resources Code
- 2 is amended to read:
- 3 5090.02. (a) The Legislature finds all of the following:
- 4 (1) Off-highway motor vehicles are enjoying an ever-increasing
- 5 popularity in California.
- 6 (2) Off-highway recreation includes both motorized recreation
- 7 and motorized off-highway access to nonmotorized recreation
- 8 activities.
- 9 (3) The indiscriminate and uncontrolled use of those vehicles
- 10 may have a deleterious impact on the environment, wildlife
- 11 habitats, native wildlife, and native flora.
- 12 (b) The Legislature hereby declares that effectively managed
- 13 areas and adequate facilities for the use of off-highway vehicles
- 14 and conservation and enforcement are essential for ecologically
- 15 balanced recreation.
- 16 (c) Accordingly, it is the intent of the Legislature that:

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

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

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

10 (4) When areas or trails or portions thereof cannot be maintained
11 to appropriate established standards for sustained long-term use,
12 they should be closed to use and repaired, to prevent accelerated
13 erosion. Those areas should remain closed until they can be
14 managed within the soil conservation standard or should be closed
15 and restored.

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

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

25 SEC. 2. Section 5090.15 of the Public Resources Code is
26 amended to read:

27 5090.15. (a) There is in the department the Off-Highway Motor
28 Vehicle Recreation Commission, consisting of nine members, five
29 of whom shall be appointed by the Governor and subject to Senate
30 confirmation, two of whom shall be appointed by the Senate
31 Committee on Rules, and two of whom shall be appointed by the
32 Speaker of the Assembly.

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

- 35 (1) Off-highway vehicle recreation interests.
- 36 (2) Biological or soil scientists.
- 37 (3) Groups or associations of predominantly rural landowners.
- 38 (4) Law enforcement.
- 39 (5) Environmental protection organizations.
- 40 (6) Nonmotorized recreation interests.

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

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

10 SEC. 3. Section 5090.23 of the Public Resources Code is
11 repealed.

12 SEC. 4. Section 5090.24 of the Public Resources Code is
13 amended to read:

14 5090.24. The commission has the following particular duties
15 and responsibilities:

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

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

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

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

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

- 1 (f) Review all plans for new and expanded local and regional
2 vehicle recreation areas that have applied for grant funds.
- 3 (g) Review and comment on the strategic plan developed by
4 the division pursuant to Section 5090.32.
- 5 (h) Prepare and submit a program report to the Governor, the
6 Assembly Water, Parks, and Wildlife Committee, the Senate
7 Committee on Natural Resources and Water, and the Committee
8 on Appropriations of each house on or before January 1, 2011,
9 and every three years thereafter. The report shall be adopted by
10 the commission after discussing the contents during two or more
11 public meetings. The report shall address the status of the program
12 and off-highway motor vehicle recreation, including all of the
13 following:
- 14 (1) The results of the strategic planning process completed
15 pursuant to subdivision (l) of Section 5090.32.
- 16 (2) The condition of natural and cultural resources of areas and
17 trails receiving state off-highway motor vehicle funds and the
18 resolution of conflicts of use in those areas and trails.
- 19 (3) The status and accomplishments of funds appropriated for
20 restoration pursuant to paragraph (2) of subdivision (b) of Section
21 5090.50.
- 22 (4) A summary of resource monitoring data compiled and
23 restoration work completed.
- 24 (5) Actions taken by the division and department since the last
25 program report to discourage and decrease trespass of off-highway
26 motor vehicles on private property.
- 27 (6) Other relevant program-related environmental issues that
28 have arisen since the last program report.
- 29 SEC. 5. Section 5090.32 of the Public Resources Code is
30 amended to read:
- 31 5090.32. The division has the following duties and
32 responsibilities:
- 33 (a) Planning, acquisition, development, conservation, and
34 restoration of lands in the state vehicular recreation areas.
- 35 (b) Direct management, maintenance, administration, and
36 operation of lands in the state vehicular recreation areas.
- 37 (c) Provide for law enforcement and appropriate public safety
38 activities.
- 39 (d) Implementation of all aspects of the program.

1 (e) Ensure program compliance with the California
2 Environmental Quality Act (Division 13 (commencing with Section
3 21000)) in state vehicular recreation areas.

4 (f) Provide staff assistance to the commission.

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

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

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

14 (j) Prepare and coordinate safety and education programs.

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

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

31 SEC. 6. Section 5090.34 of the Public Resources Code is
32 repealed.

33 SEC. 7. Section 5090.34 is added to the Public Resources Code,
34 to read:

35 5090.34. (a) In cooperation with the commission, the division
36 shall make available on the division's Internet Web site information
37 regarding off-highway motor vehicle recreation opportunities,
38 pertinent laws and regulations, and responsible use of the system.
39 At a minimum, the Web site shall include the following:

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

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

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

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

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

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

24 SEC. 8. Section 5090.50 of the Public Resources Code is
25 repealed.

26 SEC. 9. Section 5090.50 is added to the Public Resources Code,
27 to read:

28 5090.50. (a) The division shall develop and implement a grant
29 and cooperative agreement program to support the planning,
30 acquisition, development, maintenance, administration, operation,
31 enforcement, restoration, and conservation of trails, trailheads,
32 areas, and other facilities associated with the use of off-highway
33 motor vehicles, and programs involving off-highway motor vehicle
34 safety or education.

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

38 (1) Operation and maintenance.

39 (A) Fifty percent of the funds appropriated by the Legislature
40 pursuant to subdivision (a) of Section 5090.61 shall be expended

1 solely for grants and cooperative agreements for the acquisition,
2 maintenance, operation, planning, development, or conservation
3 of trails and facilities associated with the use of off-highway motor
4 vehicles for recreation or motorized access to nonmotorized
5 recreation.

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

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

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

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

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

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

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

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

31 (2) Restoration.

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

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

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

5 (D) Eligible projects include:

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

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

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

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

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

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

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

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

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

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

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

37 (3) Law enforcement.

38 (A) Twenty percent of the funds appropriated by the Legislature
39 pursuant to subdivision (a) of Section 5090.61 shall be available
40 for law enforcement grants and cooperative agreements and shall

1 be allocated to local and federal law enforcement entities for
2 personnel and related equipment. The amount of the grant or
3 cooperative agreement shall be proportionate to the off-highway
4 motor vehicle enforcement needs under each entity's jurisdiction.

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

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

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

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

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

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

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

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

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

- 1 (4) Education and safety. Five percent of the funds appropriated
- 2 by the Legislature pursuant to subdivision (a) of Section 5090.61
- 3 shall be available for grants and cooperative agreements that either
- 4 provide comprehensive education that teaches off-highway motor
- 5 vehicle safety, environmental responsibility, and respect for private
- 6 property, or provide safety programs associated with off-highway
- 7 motor vehicle recreation.
- 8 (c) Eligible grant and cooperative agreement applicants include:
- 9 (1) Cities, counties, and districts that have approval to apply for
- 10 grant funds, in the form of a resolution from their governing body.
- 11 (2) State agencies for projects under paragraph (2) of subdivision
- 12 (b).
- 13 (3) Agencies of the United States.
- 14 (4) Federally recognized Native American tribes.
- 15 (5) Education and nonprofit organizations for eligible projects
- 16 described in subdivision (f).
- 17 (d) Guidelines developed to implement this program shall at a
- 18 minimum do all of the following:
- 19 (1) Distribute grants and cooperative agreements on a
- 20 competitive basis, except for law enforcement grants allocated in
- 21 accordance with paragraph (3) of subdivision (b).
- 22 (2) Be developed with public input, including focus groups.
- 23 (3) Require applications to be in accordance with local or federal
- 24 plans and the strategic plan for off-highway motor vehicle
- 25 recreation prepared by the division.
- 26 (4) Require grant applicants to comply with the California
- 27 Environmental Quality Act (Division 13 (commencing with Section
- 28 21000)). Applicants for cooperative agreements shall complete
- 29 environmental review procedures that are at least comparable to
- 30 those of the California Environmental Quality Act (Division 13
- 31 (commencing with Section 21000)).
- 32 (5) Require the applicant to agree to provide matching funds or
- 33 the equivalent value of services or material used, in an amount not
- 34 less than 25 percent of the total project cost.
- 35 (6) Require the applicant, if it is a city or county, to disclose
- 36 how fees collected pursuant to Section 38230 of the Vehicle Code
- 37 are being used and whether the use of these fees complements the
- 38 applicant's project.
- 39 (7) Fund all eligible applications to the extent feasible.

1 (e) All grants and cooperative agreements involving ground
2 disturbing activities shall be subject to the uniform application of
3 soil and wildlife habitat protection standards specified in Section
4 5090.53.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 SEC. 10. Section 5090.51 of the Public Resources Code is
12 repealed.

13 SEC. 11. Section 5090.53 of the Public Resources Code is
14 amended to read:

15 5090.53. No funds may be granted or expended pursuant to
16 Section 5090.50, unless all of the following conditions are met:

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

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

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

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

1 (e) The recipient agrees to enforce the registration of
2 off-highway motor vehicles and the other provisions of Division
3 16.5 (commencing with Section 38000) of the Vehicle Code and
4 to enforce the other applicable laws regarding the operation of
5 off-highway motor vehicles.

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

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

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

16 SEC. 12. Section 5090.61 of the Public Resources Code is
17 repealed.

18 SEC. 13. Section 5090.61 is added to the Public Resources
19 Code, to read:

20 5090.61. Moneys in the fund shall be available, upon
21 appropriation by the Legislature, as follows:

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

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

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

1 SEC. 14. Section 5090.63 of the Public Resources Code is
2 repealed.

3 SEC. 15 Section 5090.64 of the Public Resources Code is
4 repealed.

5 SEC. 16. Section 5090.70 of the Public Resources Code is
6 amended to read:

7 5090.70. This chapter shall remain in effect only until January
8 1, 2018, and as of that date is repealed, unless a later enacted
9 statute, that is enacted before January 1, 2018, deletes or extends
10 that date.

11 SEC. 17. Section 5091.15 of the Public Resources Code is
12 amended to read:

13 5091.15. (a) Except as provided in this section, no person
14 shall, from November 1 of any year to May 30 of the next year or
15 for a shorter time as determined by the department, park a vehicle
16 in a designated parking area unless the vehicle displays a parking
17 permit issued by the department. Overnight camping in a vehicle
18 parked in a designated parking area may be authorized by the
19 department when it determines that the use is for a recreational
20 activity, is safe and prudent, and is of limited duration.

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

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

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

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

39 (f) The department may contract with appropriate agencies for
40 law enforcement, including, but not limited to, the Department of

1 the California Highway Patrol, the county sheriffs, and the United
2 States Department of Agriculture Forest Service. Enforcement
3 activities may be funded with moneys appropriated from the Winter
4 Recreation Fund.

5 SEC. 18. Section 5091.25 of the Public Resources Code is
6 amended to read:

7 5091.25. (a) Proceeds from the sale of SNO-PARK parking
8 permits shall be paid to the State Treasury to the credit of the
9 Winter Recreation Fund, which is hereby created.

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

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

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

23 SEC. 19. Section 8352.6 of the Revenue and Taxation Code
24 is repealed.

25 SEC. 20. Section 8352.6 is added to the Revenue and Taxation
26 Code, to read:

27 8352.6. (a) Subject to Section 8352.1, on the first day of every
28 month, there shall be transferred from money deposited to the
29 credit of the Motor Vehicle Fuel Account to the Off-Highway
30 Vehicle Trust Fund created by Section 38225 of the Vehicle Code
31 an amount attributable to taxes imposed upon distributions of motor
32 vehicle fuel used in the operation of motor vehicles off-highway
33 and for which a refund has not been claimed. Transfers made
34 pursuant to this section shall be made prior to transfers pursuant
35 to Section 8352.2.

36 (b) The amount transferred pursuant to subdivision (a), as a
37 percent of the Motor Vehicle Fuel Account, shall be equal to the
38 percent transferred in the 2006–07 fiscal year. Every five years,
39 starting in the 2013–14 fiscal year, the percent transferred may be
40 adjusted by the Department of Transportation in cooperation with

1 the Department of Parks and Recreation and the Department of
2 Motor Vehicles. Adjustments shall be based on, but not limited
3 to, the changes in the following factors since the 2006–07 fiscal
4 year or the last adjustment, whichever is more recent:

5 (1) The number of vehicles registered as off-highway motor
6 vehicles as required by Division 16.5 (commencing with Section
7 38000) of the Vehicle Code.

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

11 (3) Attendance at the state vehicular recreation areas.

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

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

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

38 SEC. 21. Section 8352.7 of the Revenue and Taxation Code
39 is repealed.

1 SEC. 22. Section 8352.8 of the Revenue and Taxation Code
2 is amended to read:

3 8352.8. (a) The Conservation and Enforcement Services
4 Account is hereby established as an account in the Off-Highway
5 Vehicle Trust Fund created by Section 38225 of the Vehicle Code.

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

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

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

20 SEC. 23. Section 38165 of the Vehicle Code is amended to
21 read:

22 38165. (a) The department shall determine the size, color, and
23 letters or number of the plate or device issued pursuant to this
24 division and the life of the series of plate or device issued, but in
25 no event less than six years. The design of the plate or device shall
26 have the identification number as the most prominent feature of
27 the device. During the intervening identification periods for which
28 the plate or device is issued, the department shall issue a tab,
29 sticker, or other suitable device to indicate the term for which such
30 plate or device will be valid.

31 (b) On or before July 1, 2009, the department, in conjunction
32 with the Division of Off-Highway Motor Vehicle Recreation of
33 the Department of Parks and Recreation, shall report to the
34 Assembly Committee on Water, Parks and Wildlife and the Senate
35 Committee on Natural Resources and Water, regarding
36 recommendations to improve the identification of off-highway
37 motor vehicles. At a minimum, the report shall examine the benefits
38 and challenges of all of the following:

39 (1) Using multiple identification stickers for each vehicle.

40 (2) Using large-print identifying numbers or letters.

1 (3) Various identifying devices, such as license plates and
2 stickers.

3 (4) Requiring license plates or other device alternatives for
4 certain off-highway vehicle types.

5 (5) Including a unique number for special nonresident permits
6 issued under Section 38087.5.

7 (c) In preparing the report, the department and the Division of
8 Off-Highway Motor Vehicle Recreation shall work with vehicle
9 manufacturers to evaluate feasibility.

10 SEC. 24. Section 38225 of the Vehicle Code, as amended by
11 Section 58 of Chapter 77 of the Statutes of 2006, is amended to
12 read:

13 38225. (a) A service fee of seven dollars (\$7) shall be paid to
14 the department for the issuance or renewal of identification of
15 off-highway motor vehicles subject to identification, except as
16 expressly exempted under this division.

17 (b) In addition to the service fee required by subdivision (a), a
18 special fee of thirty-three dollars (\$33) shall be paid at the time of
19 payment of the service fee for the issuance or renewal of an
20 identification plate or device.

21 (c) All money transferred pursuant to Section 8352.6 of the
22 Revenue and Taxation Code, all fees received by the department
23 pursuant to subdivision (b), and all day use, overnight use, or
24 annual or biennial use fees for state vehicular recreation areas
25 received by the Department of Parks and Recreation shall be
26 deposited in the Off-Highway Vehicle Trust Fund, which is hereby
27 created. There shall be a separate reporting of special fee revenues
28 by vehicle type, including four-wheeled vehicles, all-terrain
29 vehicles, motorcycles, and snowmobiles. All money shall be
30 deposited in the fund, and, upon appropriation by the Legislature,
31 shall be allocated according to Section 5090.61 of the Public
32 Resources Code.

33 (d) *Any money temporarily transferred by the Legislature from*
34 *the Off-Highway Vehicle Trust Fund to the General Fund shall be*
35 *reimbursed, without interest, by the Legislature within two fiscal*
36 *years of the transfer.*

37 (e) *This section shall remain in effect only until January 1, 2018,*
38 *and as of that date is repealed, unless a later enacted statute, that*
39 *is enacted before January 1, 2018, deletes or extends that date.*
40 *Any unencumbered funds remaining in the Off-Highway Vehicle*

1 *Trust Fund on January 1, 2018, shall be transferred to the General*
2 *Fund.*

3 SEC. 25. Section 38301 of the Vehicle Code is amended to
4 read:

5 38301. (a) It is unlawful to operate a vehicle in violation of
6 special regulations which have been promulgated by the
7 governmental agency having jurisdiction over public lands,
8 including, but not limited to, regulations governing access, routes
9 of travel, plants, wildlife, wildlife habitat, water resources, and
10 historical sites.

11 (b) A person who operates a motor vehicle in an area closed to
12 that vehicle is guilty of a public offense and shall be punished as
13 follows:

14 (1) Except as provided in paragraphs (2) and (3), the offense is
15 an infraction punishable by a fine not exceeding fifty dollars (\$50).

16 (2) For a second offense committed within seven years after a
17 prior violation for which there was a conviction punishable under
18 paragraph (1), the offense is an infraction punishable by a fine not
19 exceeding seventy-five dollars (\$75).

20 (3) For a third or subsequent offense committed within seven
21 years after two or more prior violations for which there were
22 convictions punishable under this section, the offense is punishable
23 by a fine not exceeding one hundred fifty dollars (\$150). In addition
24 to the fine, the court may assess costs sufficient to repair property
25 damage resulting from the violation.

26 SEC. 26. No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school
29 district will be incurred because this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section 17556 of
32 the Government Code, or changes the definition of a crime within
33 the meaning of Section 6 of Article XIII B of the California
34 Constitution.