

Senate Bill No. 742

CHAPTER 541

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 and 38301 of, and to amend and repeal Section 38225 of, the Vehicle Code, relating to off-highway recreation.

[Approved by Governor October 12, 2007. Filed with
Secretary of State October 12, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

SB 742, 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 These provisions are to be repealed on January 1, 2008.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.

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

SECTION 1. Section 5090.02 of the Public Resources Code is amended to read:

5090.02. (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.

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

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

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

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

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

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

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 Section 5090.23 of the Public Resources Code is repealed.

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

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

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

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

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

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

of any adverse impact determined by the commission to be occurring, and suitable measures for the restoration of adversely impacted property.

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

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

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

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

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

SEC. 5. Section 5090.32 of the Public Resources Code is amended to read:

5090.32. 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.

(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.

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

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

5090.34. (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.

(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.

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

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

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

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

(1) Operation and maintenance.

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

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

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

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

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

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

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

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

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

(2) Restoration.

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

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

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

(D) Eligible projects include:

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

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

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

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

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

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

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

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

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

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

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

(3) Law enforcement.

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

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

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

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

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

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

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

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

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

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

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

(c) Eligible grant and cooperative agreement applicants include:

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

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

(3) Agencies of the United States.

(4) Federally recognized Native American tribes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5090.53. 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.

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

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

5090.61. 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.

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

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

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

5090.70. 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.

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

5091.15. (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.

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

5091.25. (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.

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

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

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

(b) The amount transferred pursuant to subdivision (a), as a percent of the Motor Vehicle Fuel Account, shall be equal to the percent transferred in the 2006–07 fiscal year. Every five years, starting in the 2013–14 fiscal

year, the percent transferred may be adjusted by the Department of Transportation in cooperation with the Department of Parks and Recreation and the Department of Motor Vehicles. Adjustments shall be based on, but not limited to, the changes in the following factors since the 2006–07 fiscal year or the last adjustment, whichever is more recent:

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

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

(3) Attendance at the state vehicular recreation areas.

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

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

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

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

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

8352.8. (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.

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

38165. (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.

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

38225. (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.

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

38301. (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.

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