

AMENDED IN SENATE AUGUST 30, 2011

AMENDED IN SENATE AUGUST 18, 2011

AMENDED IN SENATE JULY 6, 2011

AMENDED IN SENATE JUNE 23, 2011

AMENDED IN ASSEMBLY APRIL 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 628**

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**Introduced by Assembly Member Conway**

February 16, 2011

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An act to amend Sections 38026 and 38026.5 of, and to add and repeal Section 38026.1 of, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 628, as amended, Conway. Vehicles: off-highway vehicle recreation: County of Inyo.

Existing law authorizes an off-highway motor vehicle that has been issued a plate or device to be operated or driven upon a highway under certain circumstances. Existing law authorizes various public entities, and the Director of Parks and Recreation, to designate a highway, or portion thereof, for the combined use of regular vehicular traffic and off-highway motor vehicles if certain requirements are met. Existing law prohibits a highway from being designated for this combined use for a distance of more than 3 miles.

This bill would, until January 1, 2017, authorize the County of Inyo to establish a pilot project that would exempt from this prohibition specified combined-use highways, except as provided, in the

unincorporated area in the County of Inyo so that the highways can be used to link existing off-highway motor vehicle trails and trailheads on federal Bureau of Land Management or United States Forest Service lands, and to link off-highway motor vehicle recreational-use areas with necessary service and lodging facilities, in order to provide a unified linkage of trail systems for off-highway motor vehicles, among other things, as prescribed. ~~The~~

*The bill would authorize the pilot project to include the use of a state highway, or a crossing of the highway, subject to the approval of the Department of Transportation, or the crossing of a highway, and would require the County of Inyo to indemnify the state, as specified. The bill would require the County of Inyo, in consultation with the Department of the California Highway Patrol, the Department of Transportation, and the Department of Parks and Recreation, not later than January 1, 2016, to prepare and submit to the Legislature a report evaluating the effectiveness of the pilot project, and containing specified information.*

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

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Inyo County is a rural county with a population of 17,945
- 4 residents.
- 5 (b) Inyo County is comprised of 10,140 square miles.
- 6 (c) Inyo County is the second largest county in the United States
- 7 in area, yet only 2 percent of this land is inhabited.
- 8 (d) Ninety-two percent of land in Inyo County is federally
- 9 administered public lands.
- 10 (e) Inyo County has outstanding natural diversity, including
- 11 Mount Whitney in the eastern Sierra, which is the highest peak in
- 12 the contiguous United States, as well as Death Valley, which is
- 13 the lowest point in the United States and the largest national park
- 14 in the contiguous United States.
- 15 (f) With six million acres of public land, Inyo County offers
- 16 numerous opportunities to explore and recreate.
- 17 SEC. 2. It is the intent of the Legislature in enacting this act
- 18 and designating combined-use highways on unincorporated county
- 19 roads in the County of Inyo for more than three miles to link

1 existing roads in the unincorporated portion of the county to  
2 existing trails and trailheads on federal Bureau of Land  
3 Management or United States Forest Service lands in order to  
4 provide a unified system of trails for off-highway motor vehicles.  
5 It is further the intent of the Legislature that no General Fund  
6 moneys be expended for the pilot project established by this act,  
7 and the project will be revenue neutral to the state.

8 SEC. 3. Section 38026 of the Vehicle Code is amended to read:

9 38026. (a) In addition to Section 38025 and after complying  
10 with subdivision (c) of this section, if a local authority, an agency  
11 of the federal government, or the Director of Parks and Recreation  
12 finds that a highway, or a portion of a highway, under the  
13 jurisdiction of the authority, agency, or the director, as the case  
14 may be, is located in a manner that provides a connecting link  
15 between off-highway motor vehicle trail segments, between an  
16 off-highway motor vehicle recreational use area and necessary  
17 service facilities, or between lodging facilities and an off-highway  
18 motor vehicle recreational facility and if it is found that the  
19 highway is designed and constructed so as to safely permit the use  
20 of regular vehicular traffic and also the driving of off-highway  
21 motor vehicles on that highway, the local authority, by resolution  
22 or ordinance, agency of the federal government, or the Director  
23 of Parks and Recreation, as the case may be, may designate that  
24 highway, or a portion of a highway, for combined use and shall  
25 prescribe rules and regulations therefor. A highway, or portion of  
26 a highway, shall not be so designated for a distance of more than  
27 three miles, except as provided in Section 38026.1. A freeway  
28 shall not be designated under this section.

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

33 (c) Prior to designating a highway or portion of a highway on  
34 the motion of the local authority, an agency of the federal  
35 government, or the Director of Parks and Recreation, or as a  
36 recommendation of the Off-Highway Motor Vehicle Recreation  
37 Commission, a local authority, an agency of the federal  
38 government, or the Director of Parks and Recreation shall notify  
39 the Commissioner of the California Highway Patrol, and shall not  
40 designate any segment pursuant to subdivision (a) which, in the

1 opinion of the commissioner, would create a potential traffic safety  
2 hazard.

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

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

13 SEC. 4. Section 38026.1 is added to the Vehicle Code, to read:

14 38026.1. (a) Except as provided in subdivision (e), the County  
15 of Inyo may establish a pilot project to designate combined-use  
16 highways on unincorporated county roads in the county for no  
17 more than 10 miles so that the combined-use highways can be used  
18 to link existing off-highway motor vehicle trails and trailheads on  
19 federal Bureau of Land Management or United States Forest  
20 Service lands, and to link off-highway motor vehicle  
21 recreational-use areas with necessary service and lodging facilities,  
22 in order to provide a unified system of trails for off-highway motor  
23 vehicles, preserve traffic safety, improve natural resource  
24 protection, reduce off-highway vehicle trespass on private land,  
25 and minimize impacts on county residents.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 SEC. 5. Section 38026.5 of the Vehicle Code is amended to  
16 read:

17 38026.5. (a) In accordance with subdivision (c) of Section  
18 4000, a motor vehicle issued a plate or device pursuant to Section  
19 38160 may be operated or driven on a local highway, or a portion  
20 of the local highway, that is designated pursuant to Section 38026  
21 or 38026.1 if the operation is in conformance with this code and  
22 the vehicle complies with off-highway vehicle equipment  
23 requirements specified in this division.

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

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

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

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

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

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

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