

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2338**

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**Introduced by Assembly Member Conway**

February 19, 2010

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An act to amend Section 38026 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2338, as amended, Conway. Vehicles: off-highway vehicle recreation.

*(1) 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 also 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 exempt from this prohibition a highway in the County of Inyo unless the commissioner of the Department of the California Highway Patrol finds that a highway in the county is not designed and constructed to permit the safe driving of both regular vehicular traffic and off-highway motor vehicles.*

*(2) This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Inyo.*

~~Existing law authorizes a local authority, an agency of the federal government, or 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.

~~This bill would make technical, nonsubstantive changes to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ 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 the following:*

2     *(a) Inyo County is a rural county with a population of 18,152*  
3     *people.*

4     *(b) Inyo County comprises of 10,140 square miles.*

5     *(c) Inyo County is the second largest county in the United States,*  
6     *in terms of land mass, yet only 2 percent of this land is inhabited.*

7     *(d) Ninety-two percent of land in Inyo County is federally owned.*

8     *(e) Inyo County has outstanding natural diversity, including*  
9     *Mount Whitney in the eastern Sierra, the highest peak in the*  
10    *contiguous United States, as well as Death Valley, the lowest point*  
11    *in the United States and the largest national park in the contiguous*  
12    *United States.*

13    *(f) With six million acres of public land, Inyo County offers*  
14    *numerous opportunities to explore and recreate.*

15    ~~SECTION 1.~~

16    *SEC. 2. Section 38026 of the Vehicle Code is amended to read:*

17    38026. (a) (1) In addition to Section 38025 and after  
18    complying with subdivision (c) of this section, if a local authority,  
19    an agency of the federal government, or the Director of Parks and  
20    Recreation finds that a highway, or a portion thereof, under the  
21    jurisdiction of the authority, agency, or the director, as the case  
22    may be, is located in a manner that provides a connecting link  
23    between off-highway motor vehicle trail segments, between an  
24    off-highway motor vehicle recreational use area and necessary  
25    service facilities, or between lodging facilities and an off-highway  
26    motor vehicle recreational facility, and if it is found that the  
27    highway is designed and constructed so as to safely permit the use  
28    of regular vehicular traffic and also the driving of off-highway  
29    motor vehicles on that highway, the local authority, by resolution  
30    or ordinance, agency of the federal government, or the Director  
31    of Parks and Recreation, as the case may be, may designate that

highway, or a portion thereof, for combined use and shall prescribe rules and regulations therefor.

(2) (A) A highway, or portion thereof, shall not be designated for combined use under this section for a distance of more than three miles.

(B) Subparagraph (A) does not apply to a highway in the County of Inyo unless the Commissioner of the Department of the California Highway Patrol finds that a highway in the county is not designed and constructed to permit the safe driving of both regular vehicular traffic and off-highway motor vehicles.

(3) A freeway shall not be designated under this section.

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

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

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

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

SEC. 3. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because the County of Inyo is a rural and remote county that contains six million acres of public land for exploration and recreation and the use of off-highway motor vehicles is a

- 1 *popular and common mode of transportation for residents and*
- 2 *visitors of the county.*

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