

AMENDED IN ASSEMBLY MAY 28, 2010

AMENDED IN ASSEMBLY APRIL 22, 2010

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2338

Introduced by Assembly Member Conway

February 19, 2010

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 county road located in an unincorporated area in the County of Inyo unless the ~~commissioner~~ *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 designating a highway, or a portion of a highway, in the county would create a potential traffic safety hazard.~~

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

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 the following:

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

4 (b) Inyo County ~~comprises~~ *is comprised* 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
8 administered public lands.

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

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

16 *SEC. 2. It is the intent of the Legislature in enacting this act*
17 *and designating combined-use highways on unincorporated county*
18 *roads in the County of Inyo for more than three miles to link*
19 *together existing roads in the unincorporated portion of the county*
20 *to existing trails and trail heads on federal Bureau of Land*
21 *Management or United States Forest Service lands in order to*
22 *provide a unified linkage of trail systems for off-highway motor*
23 *vehicles.*

24 ~~SEC. 2.~~

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

26 38026. (a) (1) In addition to Section 38025 and after
27 complying with subdivision (c) of this section, if a local authority,
28 an agency of the federal government, or the Director of Parks and
29 Recreation finds that a highway, or a portion thereof, under the
30 jurisdiction of the authority, agency, or the director, as the case
31 may be, is located in a manner that provides a connecting link
32 between off-highway motor vehicle trail segments, between an
33 off-highway motor vehicle recreational use area and necessary

1 service facilities, or between lodging facilities and an off-highway
2 motor vehicle recreational facility, and if it is found that the
3 highway is designed and constructed so as to safely permit the use
4 of regular vehicular traffic and also the driving of off-highway
5 motor vehicles on that highway, the local authority, by resolution
6 or ordinance, agency of the federal government, or the Director
7 of Parks and Recreation, as the case may be, may designate that
8 highway, or a portion thereof, for combined use and shall prescribe
9 rules and regulations therefor.

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

13 (B) Subparagraph (A) does not apply to a county road located
14 in an unincorporated area of the County of Inyo unless the
15 Commissioner of the Department of the California Highway Patrol
16 finds that ~~a highway in the county is not designed and constructed~~
17 ~~to permit the safe driving of both regular vehicular traffic and~~
18 ~~off-highway motor vehicles.~~ *designating a highway, or portion of*
19 *thereof, in the county would create a potential traffic safety hazard.*

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

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

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

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

38 (2) The cost of the signs shall be reimbursed from the
39 Off-Highway Vehicle Trust Fund, when appropriated by the
40 Legislature, or by expenditure of funds from a grant or cooperative

1 agreement made pursuant to Section 5090.50 of the Public
2 Resources Code.

3 ~~SEC. 3.~~

4 *SEC. 4.* The Legislature finds and declares that a special law
5 is necessary and that a general law cannot be made applicable
6 within the meaning of Section 16 of Article IV of the California
7 Constitution because the County of Inyo is a rural and remote
8 county that contains six million acres of public land for exploration
9 and recreation and the use of off-highway motor vehicles is a
10 popular and common mode of transportation for residents and
11 visitors of the county.