

Date of Hearing: April 24, 2017

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 533 (Holden) – As Amended April 18, 2017

SUBJECT: Off-highway motor vehicles

SUMMARY: Increases the minimum penalty for driving an off-highway vehicle (OHV) with a willful and wonton disregard for the safety of other persons or property from \$50 to not less than \$145.

EXISTING LAW:

- 1) Establishes punishments and fines for a variety of infractions for OHV use, including reckless driving.
- 2) Requires punishment by imprisonment in county jail for not less than five days nor more than 90 days or by a fine of not less than \$50 nor more than \$500 for driving an OHV with a willful and wanton disregard for the safety of other persons or property.
- 3) Defines OHV as a motorcycle or motor-driven cycle, a snowmobile or other vehicle designed to travel over snow or ice, a sand buggy, dune buggy, all-terrain vehicle, jeep, or recreational OHV.
- 4) Defines recreational OHV as a motor vehicle that is designed by the manufacturer for operation primarily off of the highway, has a steering wheel for steering control, has non-straddle seating, has a maximum speed capacity of greater than 30 miles per hour,

FISCAL EFFECT: Unknown

COMMENTS: This bill would increase the current range of penalties that can be levied for being cited for reckless driving of an OHV. According to the author, increasing the penalty amount will serve as a deterrent for unsafe off-road driving practices. He further states that this bill keeps the fine for off-road reckless driving in line with other forms of reckless driving and the increase is less than the rate of inflation since 1984. Finally, he states that that by aligning the fine to other forms of reckless driving, it equalizes all forms of reckless driving and serves to incentivize safe driving habits, no matter the terrain.

The author also cited a recent incident in Riverside County where a motocross rider jumped over a freeway from the San Timoteo Badlands. According to press reports, the rider may have violated both local ordinances and reckless driving. It is unclear what the outcome of this case would be if the person is found or exactly what violations they would be charged with.

Currently, the statute authorizes the courts to impose fines for reckless driving of an OHV between \$50 and \$500. Comparatively, the current statute authorizes the courts to impose fines for reckless driving on the highway to be between \$145 and \$1,000. Every year the Judicial Council of California adopts a uniform bail and penalty schedule for certain offenses in order to achieve a standard of uniformity in the handling of offenses, including all vehicle code violations. The bail and penalty schedule is both a reflection on statutory base fines and current

practice of county courts as gathered through surveying. Additionally, the bail and penalty schedule shows the additional charges and fees that are added to base fines.

The 2017 bail and penalty schedule notes that the base fine for the violation of reckless driving of an OHV is currently \$150. As mentioned, this base amount is reflected in the bail and penalty schedule based on surveys of county courts to determine what levels of fines are actually being levied. The current base fine for the violation of reckless driving of a vehicle on a highway is \$145, as reflected in statute.

Additionally, the amount spelled out in statute or recommended in the bail and penalty schedule as a fine for violating a criminal offense are base figures, and these amounts are subject to statutorily-imposed penalty assessments, such as fees and surcharges. For example, the \$150 base fine for the violation of reckless driving of an OHV, equates to \$690 total after additional fees and surcharges are added.

In recent years, the Legislature has debated the issue of abnormally high criminal penalties and assessments in California. Legislative leaders continue to work with the Judicial Council, courts and other stakeholders on this important issue. In fact, in a January 2016 report, the Legislative Analysts Office (LAO) found that California has abnormally high criminal penalties and assessments. According to the report, "Currently, comprehensive information is not available on the criminal fine and fee levels of other states. However, in order to compare California's fine and fee levels to the rest of the nation, we surveyed other states. Specifically, we surveyed one large jurisdiction in each of 33 states (including many states similar to California) for the fines and fees associated with two offenses: a stop sign violation and speeding at 20 miles per hour over the limit. We found that California's fines and fees associated with these common traffic offenses are relatively high. For example, the total fines and fees for a stop sign violation in California is \$238, which was higher than 28 of the [33] surveyed states (about 85 percent). The total in other surveyed states ranged from \$58 to \$277, and averaged \$157. The total fines and fees for speeding at 20 miles per hour over the limit in California was \$367, which was higher than all of the states we surveyed. The total in other surveyed states ranges from \$73 to \$350, and averaged \$203."

The LAO made a number of recommendations to improve the state's fine and fee system. "First, we recommend that the Legislature reevaluate the overall structure of the fine and fee system to ensure the system is consistent with its goals. As part of this process, the Legislature will want to determine the specific goals of the system, whether ability to pay should be incorporated into the system, what should be the consequences for failing to pay, and whether fines and fees should be regularly adjusted. Second, we recommend increasing legislative control over the use of criminal fine and fee revenue to ensure that its uses are in line with legislative priorities by (1) requiring that most criminal fine and fee revenue be deposited in the state General Fund, (2) consolidating most fines and fees into a single, statewide charge, (3) evaluating the existing programs supported by fine and fee revenues, and (4) mitigating the impacts of potential changes to the fine and fee system on local governments."

As previously noted, the current bail and penalty schedule sets the base fine for the violation specifically addressed in this bill, reckless driving of an OHV, at \$150 (even though the statutory minimum is \$50). The bail schedule is slightly higher than the statutory change to \$145 as proposed by this bill. The base fine level set by this bill is at parity with the current minimum fine for reckless driving on the highway. Members of the Legislature remain committed to

working with the Judicial Council and stakeholders to overhaul the fine and penalties system. This bill would update the statute to match current practice.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

Analysis Prepared by: Melissa White / TRANS. /