

Date of Hearing: March 22, 2021

ASSEMBLY COMMITTEE ON TRANSPORTATION

Laura Friedman, Chair

AB 232 (Gallagher) – As Introduced January 12, 2021

SUBJECT: Off-highway vehicles (OHV): reciprocity

SUMMARY: Limits California's reciprocity OHV provision only to those states which recognize California registered OHVs to be legal to operate within their state.

EXISTING LAW:

- 1) Defines an OHV subject to identification as a motorcycle or motor-driven cycle, snowmobile, all-terrain vehicle, or recreational off-highway vehicle.
- 2) Requires California residents who own OHVs to display a registration or identification plate distributed by the Department of Motor Vehicles (DMV).
- 3) Requires non-resident OHVs to display a valid identification or registration from their home state.
- 4) Requires non-resident OHVs without a registration from their home state to display a California Nonresident OHV Use Permit, distributed by the California Department of Parks and Recreation (Parks).

FISCAL EFFECT: Unknown

COMMENTS: OHVs are motorcycles, motor-driven cycles, dune/sand buggies, all-terrain vehicles (ATVs), jeeps, and snowmobiles that operate exclusively off public roads and highways. There are nine designated State Vehicular Recreation Areas (SVRA) in California which are designated for off-highway recreation, out of 280 units in the State Parks System, all maintained and regulated by Parks.

In 1971, California passed the Off-Highway Vehicle Act, which, among other things, required all owners of off-highway motor vehicles to register with the DMV in order to legally recreate on lands within California. OHV registration with the DMV has two identification components; vehicles which are compliant with air quality regulations receive a green identification sticker, and vehicles which are non-compliant receive a red identification sticker. The identification sticker must be displayed at all times, and identifies when the vehicle can be operated, per the California Air Resources Board (CARB) OHV Riding Season Schedule.

In 1996, subsequent legislation was passed which allowed OHVs that are currently registered in other states to operate legally in California, with a non-resident permit. Out-of-state OHVs are exempt from registration with the DMV in California.

The California Nonresident OHV Use Permit allows visitors to California, with unregistered OHVs to purchase a nonresident permit for \$30.00, per California State Vehicle Code Section 38231.5. The permit is available only to non-residents, and is required to be at least \$20.00 and

can adjust as Parks sees fit to recover costs of the program. Permits are available for purchase at all SVRAs, parks, and retailers that cater to their needs. The nonresident permit fees contribute to the Off-Highway Vehicle Trust Fund and represents approximately 5% of total revenues. Revenue from nonresident permits has varied over the years from \$200,000 to upwards of \$400,000 annually (approximately 7,000 to 14,000 permits). Other fund sources that contribute to the Off-Highway Vehicle Trust Fund include gas tax revenues, park entry fees, and registration fees, accumulating to an approximately \$81.6 million budget year. These monies are used to maintain SVRAs, OHV trails, the OHV headquarters, and contribute to four grant programs which provide natural resource restoration, education, and public safety, per sections 5090.50 and 5090.64 of the California Public Resources Code. For fiscal year (FY) 2021, \$30 million of the Off-Highway Vehicle Trust Fund was awarded in grants, \$36 million was awarded for FY 2020 and FY 2019.

OHV recreation is incredibly popular in California. According to the University of California Transportation Center 2017 report, *Assessing the State Fuel Tax Paid on Gasoline Used for Off-Highway Vehicle (OHV) Recreation*, an estimated 23.4 million people visit National Forests in California each year. Approximately one-third of visitors (5.5 million) report participating in one or more of six motorized activities during their visit, most commonly driving for pleasure, followed by OHV use and motorized trail activity. San Bernardino National Forest is used by over 265,000 visitors for OHV activities annually, followed by Angeles National Forest with over 155,000. Below are the number of OHV non-resident permit sales from the California Department of State Parks purchased from California's nine SVRAs, vendors and online sales 2016-2020:

Year	Permits
2020	6,424*
2019	6,483
2018	6,197
2017	7,790
2016	8,784

* 646 permits outstanding – not returned by vendors. Number may decrease as vendors complete accounting.

Reciprocity: Over the years, many other states followed California's lead and established programs to regulate and manage off-highway recreational vehicle use within their own state boundaries, including recognizing vehicles that were legally registered within a different state to also be allowed to recreate legally. While there is no written or binding OHV reciprocity between states, reciprocity has been understood and enforced within each state. California Vehicle Code Section 38010 (b)(6) requires any OHV not identified or registered in a foreign jurisdiction to have a California nonresident pass when recreating in California. Until recently, all states that mandated registration for OHVs practiced reciprocity by recognizing other state registrations as valid. California off-road participants could be assured when visiting other states that their registrations would be recognized as 'legal to operate' by law enforcement agencies.

As of September 2019, Arizona requires non-residents operating an OHV within Arizona to purchase a non-resident OHV decal. The non-resident OHV decal costs \$25.00 (plus a processing fee) and must be purchased prior to riding an OHV within the state. It is valid for one year from the date of purchase and is not transferrable between OHVs. As House Bill 2342 (2018) passed through the Arizona State Senate Committee on Transportation and Technology, the author stated that, "The neat thing about this bill is the people who are paying it are backing

it.” The bill sponsor also cited difficulty for law enforcement in enforcing the 30 day reciprocity period for longer-term non-resident OHV users.

Idaho also removed OHV reciprocity in 2019 imposing a fee on non-residents for off-highway vehicle travel in the state. As of January 1, 2020 a \$12.00 non-resident permit must be purchased online or with the Idaho Parks and Registration Office. The permit expires on December 31st of the year of purchase.

As of January 1, 2020, Utah no longer has reciprocity with any of the other states. The non-resident OHV permit costs \$30.00 and is good for 12 months from the time of purchase.

With these recently adopted laws every Californian recreating in Arizona, Utah and Idaho is now required to purchase a non-resident OHV registration to legally operate their vehicle in those states. Conversely, residents of Arizona, Utah and Idaho who travel to enjoy the off-road opportunities in California remain unburdened because California continues to recognize valid out-of-state registrations for OHVs. Reciprocity is more than just a regulatory issue, the justification for the removal of reciprocity in other states is fiscal in nature. Funds are earmarked for conservation, trail maintenance, and enforcement.

This bill limits reciprocity to states that honor California’s OHV legal registrations as valid and would require residents from Arizona, Utah and Idaho to purchase non-resident off-road registrations in California. Should these states reverse their decisions, the prior reciprocity would then be reinstated. This ensures that out-of-state OHV’s contribute to the environment they enjoy. California was a leader in OHV law in establishing reciprocity, and passing this legislation helps ensure that other states think carefully before removing reciprocity provisions.

According to the author, “AB 232 will make sure states that rescind OHV reciprocity don’t benefit from California’s reciprocity law. Not only is this fair, but it will hopefully encourage other states to keep their reciprocity laws in place.”

In support, the Off-Road Vehicle Club writes, “This bill will restore equability to California that was lost by the changes in law enacted by Arizona, Utah and Idaho, and it will restore parity for the burden now imposed on California residents. This bill would automatically incorporate any state that follows suit in the future and ceases to recognize California non-street legal registrations as legal to operate in an off-road capacity.”

Previous legislation: SB 249 (Allen), Chapter 459, Statutes of 2017 extends, indefinitely, the off-highway vehicle program and makes various other changes to the Off-Highway Motor Vehicle Recreation Act.

AB 1595 (Cook), Chapter 165, Statutes of 2012 defines a "recreational off-highway vehicle" (ROHV) and establishes requirements for their operation.

SB 742 (Steinberg), Chapter 541, Statutes of 2007 makes major revisions to the Off-Highway Motor Vehicle Recreation Program in the Department of Parks & Recreation and extends the sunset date.

AB 2274 (Keeley), Chapter 563, Statutes of 2003 changes the OHV Recreational Program by expanding the OHV Commissions responsibilities, including presenting a strategic plan for

future OHV needs, reducing the maximum legal noise limit, and requiring a program report biennially on the results of the OHV strategic plan and resource monitoring.

SB 2079 (Rogers), Chapter 572, Statutes of 1996 authorizes the Department of Parks and Recreation to issue nonresident permits for off-highway vehicle use.

Chappie-Z'berg Off-Highway Motor Vehicle Law of 1971 (Division 16.5 added by Stats. 1971, Ch. 1816.) established rules of the roads and procedures for off-highway vehicles in California.

REGISTERED SUPPORT / OPPOSITION:**Support**

4x4 in Motion

Abate of California - Motorcyclists Rights & Safety Organization

Clovis Independent 4 Wheelers

Cmda-california Motorcycle Dealers Association

High Sierra 4wd Club

Off Road Vehicle Club

Off Road Vehicle Legislative Coalition

San Diego Outbacks 4x4 Club

Sierra Access Coalition

Tierra Del Sol 4wd Club of San Diego

Opposition

None

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