

Date of Hearing: June 21, 2021

ASSEMBLY COMMITTEE ON TRANSPORTATION

Laura Friedman, Chair

SB 227 (Jones) – As Amended May 25, 2021

**SENATE VOTE:** 26-8

**SUBJECT:** Off-highway vehicles

**SUMMARY:** Overrides the California Air Resources Board's (CARB) regulations that sunset the Red Sticker program to establish a new registration program for off-highway motorcycles and vehicles used in competition, and makes other various changes to law related to identification and use of these vehicles. Specifically, **this bill:**

- 1) Requires an off-highway motorcycle or an all-terrain vehicle (ATV) that is model year 2022 or newer and is used solely for competition, not on a public highway, to have a vehicle identification number (VIN), to qualify for issuance or renewal of a competition identification sticker.
- 2) Requires a competition sticker for operating a competition motorcycle or ATV on public lands.
- 3) Requires a \$42 fee be paid to the Department of Motor Vehicles (DMV) for the issuance or renewal of a competition sticker for an off-highway vehicle (OHV) or ATV model year 2022 and newer. Requires DMV to deposit additional revenue, beyond its reasonable implementation costs, into the OHV Trust Fund. Further requires the revenue to be subject to appropriation by the Legislature for costs incurred by the Department of Parks and Recreation (Parks) related to competition motorcycle and ATV activities conducted on public lands.
- 4) Requires additional fees of \$9 and \$8 be paid to DMV for issuance or renewal of a competition sticker for OHVs model year 2022 and newer. Requires DMV to deposit the two fees in the Motor Vehicle Account (MVA) in the State Transportation Fund (STF). Further requires revenues from the \$8 fee to be available, upon appropriation by the Legislature, for costs related to California Highway Patrol (CHP) enforcement.
- 5) Requires an additional fee of \$4 for the issuance or renewal of a competition sticker, in lieu of all taxes.
- 6) Requires DMV to adjust the fees for competition stickers yearly based on the California Consumer Price Index.
- 7) Requires CARB, in consultation with Parks, to adopt a regulation by January 1, 2024, that provides the requirements for when competition motorcycles and ATVs are allowed to operate on public lands to practice for sanctioned competition events.
- 8) Requires riders to have a current and valid competition card from a competition-sanctioning organization when practicing for a sanctioned competition event on public lands.

- 9) Requires the public land manager having jurisdiction to administer competition practice in accordance with the regulation developed by CARB.
- 10) Redefines closed course as one that is not available at any time, or during a competition event, for vehicular access by the general public, except for the United States Forest Service or other jurisdictions that prohibit the restriction of public access.
- 11) For off-highway motorcycles used in competition that would qualify for certain equipment exemptions, requires these vehicles to be equipped with a muffler, spark arrester, and silencer or other device that limits noise emissions when operating on public lands.
- 12) Implements a January 1, 2023 repeal date for provisions related to the issuance of identification devices, and associated fees, for motorcycles that are transported upon a highway to and from closed courses, and makes other conforming changes.

**EXISTING LAW:**

- 1) Requires motor vehicles that are not registered because they are to be used off-road to be issued and display an identification sticker obtained from DMV, with certain exceptions.
- 2) Specifies certain vehicles are exempt from this requirement, including 4-wheeled motor vehicles operated solely in organized racing or competitive events on a closed course, as specified.
- 3) Authorizes a motorcycle issued a special transportation identification device to be transported upon a highway to and from a closed course. Requires a special fee of \$15 to be paid to DMV and deposited in MVA for the issuance of this type of identification.
- 4) Requires DMV, upon identifying an OHV subject to identification, to issue to the owner a suitable identification plate that is capable of being attached to the vehicle, as specified. Additionally requires DMV to determine the size, color, and letters or number of the identification plate issued for OHVs. Further specifies a violation of the Vehicle Code is punishable as an infraction.
- 5) Requires all OHV identification plates to be displayed in a specified manner, including on the left fork leg of a motorcycle, either horizontal or vertical, and visible from the left side of the motorcycle.
- 6) Generally imposes specified fees on off-highway motor vehicles, including, among others, a service fee of \$7 for the issuance or renewal of identification for off-highway motor vehicles and a special fee of \$33 paid concurrently with the service fee. The current total fees for OHV registration are \$52.
- 7) Requires certain fees associated with OHVs to be deposited in the OHV Trust Fund, and requires moneys in the fund to be allocated for specified purposes related to off-highway recreation. Requires other fees to be deposited in MVA and allocated for CHP enforcement.

- 8) Requires DMV to adjust certain fees annually based on the California Consumer Price Index (CPI).
- 9) Requires all OHVs to meet specified requirements, including, but not limited to, a requirement that the vehicle be equipped with a spark arrester maintained in effective working order. Additionally, exempts from these requirements certain OHVs being operated in an organized racing or competitive event upon a closed course.

**FISCAL EFFECT:** Unknown.

**COMMENTS:** OHVs are motor vehicles that are used only off public roads and highways, on private land and lands that are open and accessible to the public. OHVs do not require regular vehicle registration, but must display an identification plate or placard issued by DMV. This identification plate is commonly referred to as a "California Green Sticker" which is affixed directly to the OHV. The OHV "registration" fee for the identification plate is \$52 per vehicle, and is valid for a two-year period. OHV fees are used for acquisition of new OHV areas, development and operation of existing OHV areas, enforcement of the rules and regulations, and protection of natural resources. Green Sticker vehicles are allowed year-round operation on public lands open to motor vehicles.

CARB first adopted OHV exhaust standards in 1994, in part to reduce emissions from high-emitting two-stroke engine OHVs. In 1997, prior to implementation of the exhaust standards, stakeholders expressed concern regarding the availability and performance of compliant OHVs, and access to practice areas. In 1998, after extensive collaboration with industry, CARB created the "Red Sticker" program.

The Red Sticker is issued to motorcycles and ATVs model year 2003 and newer that do not meet the emission standards established by CARB. If the vehicle has a "3" or "C" in the eighth digit of the VIN, it is non-compliant with CARB exhaust emission standards, and it is issued a Red Sticker by DMV. Non-compliant OHVs cannot be modified to meet the exhaust emissions standard because the regulation is enforced at the manufacturer level, not the consumer level. OHVs with Red Stickers are restricted to riding seasons regulated by CARB.

*Ending the Red Sticker Program:* CARB originally designed the Red Sticker program to be a temporary solution to provide stability in the market while manufacturers developed a full range of OHVs that complied with California's emissions standards. In a recent assessment, CARB noted that there are over three times as many Green Sticker models available today than in 1998. The technology has developed, but the transition to Green Sticker vehicles has not occurred as anticipated, especially for the off-highway motorcycle category. There are approximately 500 Red Sticker motorcycles used for competition that are emissions noncompliant.

CARB updated the regulations in 2019 to sunset the Red Sticker program, in addition to making other amendments as shown in the table below. According to CARB's Initial Statement of Reasons, ending the Red Sticker Program would reduce statewide summertime reactive organic gases and oxides of nitrogen emissions by more than 50%, by 2040. The bulk of these reductions will be achieved by ending certification of the highest emitting Red Sticker OHV starting in 2022. Before approving the 2019 Red Sticker Program amendments, CARB staff estimated that by 2031 approximately 60% of smog forming pollution from off-highway motorcycles would be associated with the Red Sticker models. CARB's 2019 amendments will

reduce statewide summer Reactive Organic Gas and Oxides of Nitrogen by 3.1 tons per day in 2031 and 6.3 tons per day in 2042; equivalent in emissions to driving a 2018 model year passenger vehicle around the circumference of the earth more than 2,300 times every day.

CARB 2019 Rulemaking Amendments to Red Sticker Program

<b>Model Year (MY)</b>	<b>Red Sticker OHV (emissions non-compliant)</b>	<b>Green Sticker OHV (emissions compliant)</b>
<b>2003-2021</b>	<p>Operate on private tracks without limitation.</p> <p>Operate on public lands for recreation, practice, and competition according to the Red Sticker Seasonal Riding Schedule</p> <p>Beginning January 1, 2025 grandfathered as “green sticker” OHV and can operate on all public lands without restriction.</p>	Operate on public lands and private tracks without limitation.
<b>2022 and newer</b>	<p>Operate on private tracks without limitation.</p> <p>Operate competition OHV on public lands for sanctioned competition events and associated competition practice events on a closed course as allowed under federal regulations.</p>	Operate on public lands and private tracks without limitation.

While off-highway motorcycles only comprise approximately 20% of the total OHV population, they contribute more than 40% of reactive organic gas emissions. Without ending the Red Sticker Program, CARB estimates that by 2040, red sticker off-highway motorcycles would comprise about 15% of California OHV, while contributing more than 60% of emissions.

*Federal Regulations:* Federal regulations allow for an OHV to be competition exempt only if it is used "solely for competition." The regulation does not include any exceptions or limitations on this exemption criteria, nor does it address practice in preparation for competition events. In 2006, U.S. Environmental Protection Agency (U.S. EPA) implemented emissions controls for OHV competition vehicles MY 2006 or later. California’s Red Sticker Program essentially provided a loophole to the federal OHV standards by allowing non-compliant OHVs to be used for recreational use. The 2019 Red Sticker Program rulemaking brought CARB standards for off-highway motorcycles into closer alignment with U.S. EPA standards. CARB standards for other OHV types remain more stringent than U.S. EPA standards.

*Mixed Messages, Larger Issues:* CARB's 2019 Red Sticker Program Amendments allow legitimate competition OHV riders to operate competition OHV on private tracks without limitation, and on public lands for sanctioned competition events and associated competition practice events on a closed course, as allowed under federal regulations. Competition riders can practice using an emissions compliant OHV year-round at public riding areas throughout the state, or use pre-2022 MY Red Sticker OHV, in accordance with the current Red Sticker seasonal riding schedule. Considering the operating allowances for competition vehicles, even with CARB's 2019 Red Sticker Program Amendments, the need for this bill is unclear.

This bill expands regulation for OHV competition vehicles and allows emissions-noncompliant OHVs, including model year 2022 and later racing and competition vehicles, to operate on public lands for competition, practice, and recreation. This in effect overrides CARB's 2019 Red Sticker Program Amendments that sunset the Red Sticker program, and creates a new registration program for competition OHVs that do not meet CARB's emissions standards.

As a result of CARB's 2019 Red Sticker Program Amendments, Parks anticipates the number of MY 2022 and newer competition OHVs sold in California will decrease significantly, and is concerned with the impact on State Vehicle Recreation Areas (SVRA), and how to manage a policy for MY 2022 and newer. Without this bill, Parks states enforcement of OHV vehicles in SVRAs will be more difficult.

The DMV does not anticipate any issues with the new registration process this bill creates.

*Staff comments:* This bill brings a larger issue to the forefront--OHV recreation on private land. The scope of this bill is limited to public lands, of which nine SVRA Parks are regulated by Parks, and a smaller amount used for competition. It is estimated that 30% of OHV competitions take place on private land, 20% on SVRAs, and 50% on federal land. Given the estimates of emissions from Red Sticker vehicles, and California's continued commitment to emissions reduction in the transportation sector, all OHV vehicles, regardless of operation on private or public land, should be brought up to emissions standards.

The author may wish to consider the following amendments to ensure federal regulation alignment, and to allow CARB's 2019 Rulemaking Amendments to Red Sticker Program to take effect:

SEC. 4. Section 38014 of the Vehicle Code is amended to read:

38014. As used in this division, "closed course" includes, but is not limited to, a *speedway, racetrack* ~~course in which motocross, enduro, cross country, or observed trial racing events are conducted~~, or a prescribed and defined route of travel on or off a highway ~~where competition motorcycle and all terrain vehicle use is allowed~~ that is closed to ~~all~~ *public* motor vehicles ~~use~~ other than those of participants *for the safety of the participants, public and event administrators*. A closed course is one that is not available at any time, *such as a sanctioned competition event*, ~~or during a competition event~~, for vehicular access by the general public. ~~except for the United States Forest Service or other jurisdictions that prohibit the restriction of public access.~~

~~SEC. 5 Section 38015 is added to the Vehicle Code, to read:~~

~~38015. (a) The State Air Resources Board, in consultation with the Department of Parks and Recreation, shall adopt a regulation by January 1, 2024, prescribing when competition~~

~~motorcycles and all terrain vehicles may operate on public lands to practice for sanctioned competition events.~~

~~(b) A rider shall possess a current and valid competition card from a competition-sanctioning organization when practicing for a sanctioned competition event on public lands.~~

~~(c) The public land manager having jurisdiction shall administer competition practice in accordance with the regulation developed pursuant to subdivision (a). Until that regulation is adopted, the public land manager having jurisdiction shall administer competition practice in accordance with the off-highway vehicle areas and riding seasons schedule contained in Table 1 of Section 2415 of Title 13 of the California Code of Regulations, as that regulation read on January 1, 2020.~~

~~(d) Commencing January 1, 2023, a competition practice rider shall have a current competition identification sticker correctly affixed to the motorcycle before practicing.~~

*According to the author*, “Fifty years ago, forward thinking environmentalist and pragmatic motorized recreationists worked together in the Capitol to create what many believe to be the most positive and collaborative off-highway vehicle (OHV) program in the country. SB 227 will continue this legacy of California’s successful OHV programs. By replacing the sunseting Red Sticker program with SB 227’s Competition Sticker, this bill will continue revenue streams for critical environmental work, as well as continuing all the advantages of identification that come with the program—including allowing law enforcement to trace these types of vehicles for public safety purposes. The economic impacts of OHV competitions are significant to rural communities, and this bill will help communities with their economic recovery during these challenging times. This bill does not expand OHV into new areas. Specifically, this bill only applies to competitive riding of OHVs. SB 227 will permit competition OHVs to continue their long history in a prosperous sport with safe practices.”

*In support*, the American Motorist Association writes, “This important bill would exempt specially constructed motor vehicles used in organized racing or competitive events on a closed course from the identification device requirement for motor vehicles operated exclusively off the highways.”

*In opposition*, the Coalition for Clean Air writes, “CARB’s attention and resources must be focused on protecting public health and slowing the climate crisis rather than creating or extending pollution-friendly programs. For these reasons, the undersigned organizations oppose SB 227.”

*Previous Legislation*: SB 1024 (Jones) of 2020, establishes a new registration program for off-highway motorcycles and vehicles used in competition and makes other various changes to law related to identification and use of these vehicles.

## REGISTERED SUPPORT / OPPOSITION:

### Support

Abate of California - Motorcyclists Rights & Safety Organization  
American Motorcyclist Association

American Motorcyclist Association District 36 (D36)  
California Coast Motorsports  
CMDA-California Motorcycle Dealers Association  
Contra Costa Powersports  
Defenders of Wildlife  
District 36 Motorcycle Sports Committee, INC. (ama D36)  
Factory Powersports  
Harley-Davidson of Glendale  
Harley-Davidson of Santa Clarita  
PCP Motorsports  
Sacramento Pacific International Trials Society  
Sierra Motor Sports  
Tuleyome

**Opposition**

American Lung Association in California  
Coalition for Clean Air  
Natural Resources Defense Council  
Sierra Club  
Union of Concerned Scientists

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