

Date of Hearing: July 1, 2019

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

SB 402 (Borgeas) – As Amended May 13, 2019

SENATE VOTE: 33-0

SUBJECT: Vehicles: off-highway vehicle recreation: County of Inyo

SUMMARY: Extends the sunset date to January 1, 2025, for the Inyo County pilot program to designate combined-use roadways segments to connect off-highway vehicles (OHV) facilities.

Specifically, **this bill:**

- 1) Declares the legislative intent to develop additional and better data to evaluate whether a combined-use highway is workable and to ensure no General Fund moneys are expended on the pilot program.
- 2) Extends the sunset for the authorized Inyo County pilot program for the designation of combined use highway segments to connect OHV trails and facilities from January 1, 2020 to January 1, 2025.
- 3) Requires that an evaluation of the pilot program by Inyo County, in consultation with the Department of California Highway Patrol (CHP), the California Department of Transportation (Caltrans), and the California Department of Parks and Recreation (Parks), be submitted to the Legislature by January 1, 2024.
- 4) Requires Inyo County to submit a report, in consultation with the Department of Fish and Wildlife and the Great Basin Unified Air Pollution Control District, by January 1, 2022, to the Legislature detailing the operation and impacts of the pilot trail system, including impacts on the neighboring lands, cultural resources and archeological sites, streambed modifications and water quality, protections for wildlife and aquatic habitat, native plants, traffic, particulate pollution, and noise.

EXISTING LAW:

- 1) Generally prohibits a vehicle registered as an OHV from being operated on public streets, except if the use is to cross a highway, under specific circumstances; when the highway is closed for snow; or when the highway is designated for combined use.
- 1) Allows a local authority, a federal government agency, or the Parks Director, for highways under their respective jurisdiction, to designate a highway segment for combined use of OHVs and regular traffic. The combined-use highway segment cannot be longer than three miles long and must meet one the following criteria:
 - a) Provide a connecting link between OHV trails segments;
 - b) Link an OHV recreational use area and necessary service facilities; or
 - c) Connect lodging facilities with an OHV recreational facility.

- 2) Prohibits a freeway from being designated for the combined use of regular traffic and OHVs.
- 3) Provides that, prior to designating a highway for combined use, a local agency, federal agency, or the Parks Director must notify the CHP Commissioner and may not designate a road for combined use if the CHP believes doing so would create a potential traffic safety hazard.
- 4) Requires signs approved by Caltrans on designated combined-use highways before the designation can become effective.
- 5) Prohibits operation of an OHV on a designated combined use highway without the following: a valid license appropriate for the class of vehicle being operated, proof of insurance, a working spotlight, rubber tires, or after dark.
- 6) Authorizes Inyo County, until January 1, 2020, to establish a pilot project to provide a unified system of trails for OHVs by designating combined use highways on unincorporated county roads for segments for no more than 10 miles.
- 7) Requires that the pilot project do the following:
 - a) Prescribe a procedure for the County Board of Supervisors to select roads, by a majority vote, to be included in the pilot project;
 - b) Establish, in cooperation with Caltrans, uniform signs, markers, and traffic control devices to control OHVs;
 - c) Require OHVs subject to the pilot program to meet safety requirements related to, for instance, driver licensing, helmet usage, and other conditions of lawful OHV operation;
 - d) Limit speeds to no more than 35 miles per hour; and,
 - e) Provide an opportunity for public comment at a public hearing by the county to evaluate the pilot.
- 8) Requires, by January 1, 2019, Inyo County, in consultation with CHP, Caltrans, and Parks, to evaluate the pilot program and report its findings to the Legislature.

FISCAL EFFECT: Unknown

COMMENTS: OHVs encompass a variety of vehicle types, including motorcycles, snowmobiles, sand buggies, dune buggies, all-terrain vehicles (ATVs), Jeeps, and recreational utility vehicles (also known as utility terrain vehicles or side-by-sides), that are intended to be operated or used exclusively off the highways. They are therefore not subject to the same registration and safety equipment requirements as vehicles that are routinely used on public streets.

AB 628 (Conway), Chapter 532, Statutes of 2011, authorized Inyo County to conduct a pilot program, through January 1, 2017, to designate road segments up to 10 miles in length on county

roads for combined use with OHVs and motor vehicle traffic. This pilot was extended by SB 1345 (Berryhill), Chapter 217, Statutes of 2016, through January 1, 2020. SB 402 would extend the pilot through January 1, 2025.

The intent of the pilot is to link existing OHV trails and trailheads, mostly on federal land, to OHV recreational use areas with service and lodging facilities. This would create a unified linkage of trail systems for OHV users. According to the Rural County Representatives of California (RCRC), Inyo County has unique circumstances that warrant this pilot project. Less than 2% of its 10,000 square miles is privately-owned and many of its nearly 18,000 residents use OHVs as a common mode of transportation. Further, Inyo County's economy relies on tourism, the county's largest financial contributor.

In October 2012, the Adventure Trails System of the Eastern Sierra applied to Inyo County to designate 38 separate combined-use roadways to permit OHV traffic. After environmental review and public input, the Inyo County Board of Supervisors approved a revised application and designated 7 combined-use routes in January 2015. After the county took action to approve the routes, the Center for Biological Diversity and the Public Employees for Environmental Responsibility filed a lawsuit, concerned that the county could proceed with the remaining 31 routes in the future. The lawsuit was settled in May 2015, with the county agreeing to limit the number of routes to the 7 approved and requiring that any expansion of the program to the remaining routes would have to undergo a new environmental review with public notice and comment. According to the county, three of the combined-use routes opened in the summer of 2015, and the remaining four were opened in September 2017 after successful negotiations with Los Angeles Department of Power and Water, which owns some affected lands.

As required by AB 1345, Inyo County submitted a report to the Legislature in December 2018 to evaluate the pilot. The Inyo County Sheriff's Department and CHP reported no accidents or citations on the combined-use routes. Additionally, they did not receive any complaints regarding the combined-use routes, however, county staff reports receiving multiple concerns related to OHV activity in general. Regarding ridership and OHV use, the seven roads did not experience an increase in OHV use in comparison to other maintained roads. The report also stated the pilot has not affected non-motorized recreation such as equestrian trails; and as for road monitoring, the report notes several instances where OHV's were operating on the road shoulder, for which the county is working to upgrade proper signage for the trails. Ultimately, the report found that a small number of OHV's were driving on the combined-use designated roads.

SB 402 requires Inyo County to update this report by January 1, 2024. Additionally, the bill requires the county to submit an interim report by January 1, 2022, examining the environmental impacts of the trail system, including impacts to adjoining lands, cultural resources, and water quality.

According to the author, "Inyo County primarily consists of publicly administered land; only 1.6% of the county's over 10,000 square miles is privately owned. Inyo County's current pilot project is an important travel management tool that protects the natural beauty of the area and connects OHV riders to fuel, food and lodging in neighboring towns. Inyo County has the second-lowest population density in California, with 1.8 people per square mile and relies heavily on its several million tourists per year—many of which utilize OHVs to navigate its remote areas. The combined use routes currently being operated under this pilot project have not

had a detrimental impact on public safety, such as an increase in injuries. SB 402 is important to continue a valuable travel management tool in Inyo County for an additional five years.”

Writing in support of the bill, the Off Road Vehicle Legislative Coalition states, “due to various delays, the Inyo Adventure Trails pilot project has not had enough time to get off the ground and make a discernable difference in our community as originally intended. The program deserves more time to be in operation. It is our belief that this pilot project will spur the local economy, which is dependent on the tourism of our millions of visitors. The Adventure Trails program was designed to provide better access for OHV users to access local food, fuel and lodging. Improved access to these trails also gives increased opportunities for all to recreate—including the disabled—and enjoy the beauty of our publicly-owned lands.”

Writing in opposition, the Center for Biological Diversity states, “Inyo County supports many rare and imperiled species, including threatened and endangered plants, fish, birds, mammals and other wildlife, all of which could suffer from increased off road vehicle activities. Extending the pilot program in Inyo County could affect some of the most sensitive public lands in Owens Valley, eastern Sierras, and Death Valley National Park.”

Double referral: This bill will be referred to the Assembly Water, Parks, and Wildlife Committee should it pass out of this committee.

Previous legislation: SB 1345 (Berryhill), Chapter 217, Statutes of 2016, extended the sunset of the OHV/combined road use pilot program on Inyo County to 2020.

AB 628 (Conway) Chapter 532, Statutes of 2011, Authorized Inyo County to designate road segments up to 10 miles in length for combined use on a pilot basis.

AB 2338 (Conway) of 2010, would have allowed Inyo County to designate road segments over three miles in length for combined use. AB 2338 was vetoed by the Governor.

REGISTERED SUPPORT / OPPOSITION:

Support

Five Private Citizens
Inyo County Board of Supervisors
Off Road Vehicle Legislative Coalition
Rural County Representatives of California

Opposition

Center for Biological Diversity
Sierra Club

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