



LEGISLATIVE REPORT

Final Summary for 2022

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This year the session was distinguished by four major issues impacting the OHV, snowmobile and 4wd communities. The issues include: Colorado Rule 20 and adoption of the California Air Resources Board's standards for vehicle emissions; reduction in theft of catalytic converters (cats); Reduction in mobile and stationary emissions in general; attempts by the legislature to take wildlife and natural resources management out of the hands of the Department of Natural Resources and place it in the hands of legislators or a commission comprised of academics and scientist with little accountability to anyone, particularly the public.

- ① The first major category of bills was targeting adoption of the California Air Resources Board's LEV III and ZEV Emissions standards (these standards can be found in the attached Colorado Rule 20). LEV, Low Emission Vehicles and ZEV, Zero Emission Vehicles.
- ② The second issue dealt with addressing the monumental increase in the theft of catalytic converters and taking various measures to dramatically reduce theft. This approach uses different strategies to curb theft due to the value of precious metals in catalytic converters.
- ③ The third issue included identifying areas of higher than normal emissions, then taking whatever measures would be necessary to reduce that level to reach federal compliance. This included both mobile and stationary sources.

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Finally, the environmental pressure being placed on legislators to remove state government from resource management and place it in the hands of others poses a nightmarish scenario as you will understand when you are introduced to the bills.

The first subcategory included implementation of the California Air Resources Board emissions standards, LEV_{III} and ZEV, (a result of a Hickenlooper Executive Order issued his last year in office), including use of only CA approved aftermarket catalytic converters. **Note: these standards do not apply to motorcycles, OHVs and snowmobiles. They apply to autos and light trucks, only. However, vehicles not covered by LEV and ZEV must still meet EPA emission standards**

It should be noted up front that owners of LEV_{III} vehicles may no longer purchase own or install a used catalytic converter and neither can repair shops except for repairs requiring removal of the cat. Included in this approach to cleaner air, Colorado's antitampering statute was beefed up as was the responsibility of a seller of a motor vehicle to protect the buyer by making sure the emissions system was not tampered with. This applies to dealers and private parties. Again motorcycles, OHVs and snowmobiles are exempt.

The CA law was first mentioned in an Executive Order issued by Hickenlooper with a deadline of October 21, 2021, for the promulgation of a rule containing LEV_{III} and ZEV standards by the Colorado Department of Health and the Environment. This was issued as Rule 20 and is attached to this email. Tremendous opposition was delivered by many interested parties to adopting CA standards, but no way to stop it.

The second major topic involved steps by the General Assembly addressing an alleged 5000% increase in the past ten years in the theft of catalytic converters for their precious Metal—numbers provided by the State Patrol. These precious metals are 3 members of the Platinum metals group: rhodium, palladium and platinum to be exact.

Cats do not contain huge amounts of these metals, but there is no need, the current spot price of rhodium is \$13,000 per ounce, down from \$21,000 an ounce 3 months ago. Considering an EPA cat can bring about \$350 from the metals and the CA cat about \$700 to \$800 for recycling there is no need to say more.

One approach to curtailing theft is a change in how precious metals are sold or otherwise disposed of. Generally, stricter identification of individuals selling these metals to recyclers is required. Also outlawing the ownership of a used cat (not on your car, just in your possession) Including the prohibition of installing a used cat on a vehicle unless it is part of repair work and the cat was already on the vehicle. However, one question I inquired about is why can't someone steal them and take them to another state without such laws and sell them?

The third category was comprised of a few bills attempting to identify areas of the state with higher levels of emissions than others. In other words, the environmentalist approach to curbing many fossil fuel activities on their hit list as the bills, of course, required mitigation by most any means available. One can imagine front range trails use by vehicles, and an appeal by the state if these bills passed to curb such trail use.

The fourth major category included an effort to begin to strip the Colorado Department of natural Resources of its authority to manage everything from trails to wildlife to water and place it in the hands of either the General Assembly or, more detrimentally, a commission of handpicked academics and scientists with little or no responsibility to the public. This last draft bill almost made it to introduction. It was perhaps the most dangerous bill I have ever seen to destroy recreation considering one of the major attack points in the bill was recreation destroying the ability of the environment to rebound or accommodate climate change. Unbelievable!

This was a terrible session, primarily because legislators from the majority party did not work together nor closely with the Department of Health, so legislation duplicated itself and even contradicted itself. Few bills looked like they did when they were introduced.

BILLS

Bills that were lost (postponed indefinitely)

SB22-031

Prohibition on the Hunting of the 3 Wild Cats found in Colorado, Cougars, Bobcats and Lynx.

Another effort to take the management of wildlife away from the Division and encourage legislators with little to no experience to make decisions on natural resources they may not be qualified to make. In fact, the Division of Wildlife stated the populations were stable and hunting was necessary to meet stabilize populations. This is a step in the direction of the next draft bill that almost was, courtesy of the environmentalists.

Bill Drafted, but not introduced. It is no secret that the environmentalists want the management natural resources of Colorado taken from government and placed in the hands of private environmental scientists and activists. This proposed bill I refer to hands all recommendations for resource management to an 11 member advisory committee with no oversight, although they will be making decisions to be followed by the state government managing all resources for protection of biodiversity and climate change ecology.

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There should be enough nasty buzz words in the proposed title, for protection of biodiversity and climate change ecology, to terrify recreationists and the draft bill proves it. No recreationists, no resource users, no water interests would be represented on the committee let alone commodities. The draft considers unmanaged recreation one of the gravest threats to the bill's claim of protection.

(2) THE CLIMATE RESILIENCE AND WILDLIFE CONSERVATION STRATEGY MUST: (a)
SPECIFICALLY ADDRESS THE FOLLOWING THREATS TO THE 12 STATE'S ECOSYSTEMS:
(V) UNMANAGED **OR POORLY MANAGED RECREATION**;

Suddenly, if the 11 member committee decides the area is poorly managed, they act. What is so diabolical is the shift from a far more objective standard—no management, to the incredibly subjective standard—poorly managed. The bill is 16 pages of mind control. You should know the word “mitigation” appears nowhere in the bill.

SB22-082

Addressing the Geographical Areas with the Greatest Concentration of Air Pollutants that affect Human Health. This bill would have allowed the department of public health and the environment to use EPA air quality data to identify geographical areas in which hazardous air pollutants have the greatest negative effects on human health and then to propose a rule to the air quality commission to address pollutant levels in these areas.

Clearly, so broad in language that the rule could include almost any mitigation actions. Surely front range counties would be hit hard.

SB22-138

This bill was intended to phase out all gas powered lawn and garden equipment or what California refers to as small off-road engines. It was never made clear if the sponsors understood that CA does not include off-highway vehicles in this category Well CA does not include OHVs in this category. Nevertheless, it left the definition of SORE to the Colorado Air Quality Control Commission to define. There was considerable concern about the definition used by the sponsors which did not match the CA limit of 10hp. Colorado used a maximum of 50 hp It was amended but died on the floor of the Senate.

General Bills of Interest that Impact motorized and Nonmotorized Recreation

SB22-168

Concerning Support for Back Country Search and Rescue It is a wonder that Colorado was able to find volunteers for search and rescue. The funding was beyond a joke. The sheriffs could not reimburse S&R volunteers any expenses like gas or food. There was no statutory liability protection for search and rescue volunteers They now have limited immunity. Also Search and Rescue volunteers get disability and families can get death benefits.

Also, it allows the parks and Wildlife Commission to increase the \$.25 search and rescue fees that have not increased in decades. You see it on the Vessel, OHV, and snowmobile registration. And hunters and anglers also pay. Consider it is OHV and snowmobile riders who are a huge part of search and rescue it is about time to compensate them for expenses and fund them. No one, however, receives compensation, they remain volunteers.

Also, after Jan.1, 2023 Parks and Wildlife will administer the program not the Department of Local Affairs.

HB22-1104

Encouraging Recreational Trails in Public and Private transmission Corridors

Motorized vehicles are not included in this bill, nor did we make AN EFFORT TO HAVE IT AMENDED. This bill was hated by ranchers, farmers, power companies and other private landowners. It became so watered down that don't look for nonmotorized powerline trails showing up anytime soon.

HB22-1046

Authority for Local Governments to Designate Highways under their Jurisdiction for Over Snow Use This includes all over snow use. Counties lack the ability to close over snow use on their highways for more than 90 days. This expands that to a period as long as snow packed conditions exist. Most important issue here was to make sure the current ability of snowmobilers to access highways open by local governments remained intact. CSA/Scott Jones took the lead on this.

Implementing California LEVIII and ZEV Emissions Standards

SB22-179

Concerning Measures to Address Tampering with a Motor Vehicle's Emission This bill required anyone selling renting or leasing a motorcycle that has a tampered emissions system to bear an undue burden in creating a valid transaction of sale. Unfortunately for private parties and dealers buying and selling motorcycles with MV titles, either from the factory or after conversion of a pure dirtbike to a MV, the original bill as drafted made it almost impossible for a private party or a motorcycle dealer to feel secure selling a titled motorcycle.

Cars and light trucks are also included in the bill as it broadly addresses motor vehicles. Autos and light trucks have been required to meet front range Aircare Colorado emission standards for many years. Street bikes are not required to and we have made sure that when they have been included, they were removed. In a very complicated manner this legislation would become a backdoor attempt to force testing motorcycles for emissions tampering but make it almost impossible to test them.

There are very serious consequences for anyone selling a motor vehicle with a tampered emissions system if:

The person knew or, through the exercise of reasonable care, should have known that the emission control system was tampered with.

Unfortunately, "reasonable care" goes undefined if and until the state promulgates a rule telling you what reasonable care means. How do you know how to protect yourself when you sell whether a private party or dealer, from having the buyer go after you? For example, does it mean getting an emissions test at a testing station along the front range Aircare Colorado counties? Does it mean you can take the motor vehicle to a dealer that has the proprietary equipment and software for your brand make of motor vehicle? Can you have a garage mechanic "look it over?"

Let's just say that reasonable care means obtaining a certificate that you passed the Aircare emissions test or the printout from your auto dealer showing a receipt and the printout that all is well with the emissions system. However, motorcycle sales leave the seller with a real dilemma. Motorcycles are not required to be tested in the Aircare Colorado program as the cost for testing is exorbitant to the testing company and the motorcycle owner and the emissions contribution is minimal. Even CA currently does not require that motorcycles be emissions tested.

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Motor vehicle dealers do get a special process given the volume of what they sell. A buyer has 5 days from the date of sale to go back to the dealer if an emissions test shows the emissions system has been tampered with. The dealer can return the purchaser's money when they return the car, if they wish to keep the car the dealer can offer to repair it or the buyer may go to an outside garage for repairs and reimbursement. It is noted the options are at the dealer's discretion.

Unfortunately, even if "reasonable care is later defined by the state, motorcycle sellers and buyers cannot avail themselves of that option to determine if what they are selling has ever been tampered with. As mentioned, there is no Aircare test for a motorcycle. In areas outside the Aircare counties, it is possible a rule will allow motorcycle dealer testing. But again, a Chevy dealer is much, much easier to find in central Colorado outside the Aircare counties than an Aprilia, Triumph or even Honda motorcycle dealer.

Until the U.S has uniform OBD ports and testing like Europe so any motorcycle dealer can check any motorcycle brand, private sellers and dealers will be running around hauling motorcycles to find an Aprilia dealer if they live in Meeker. The results will often be traveling many miles to a franchised dealer of that brand make for testing and it won't be cheap. You have travel and testing costs, and sellers will add those costs to the sale.

Equally as problematic, there is nothing in the statute on the private seller's obligations to correct the problem whether it is an auto or a motorcycle. It is reasonable to believe that a private seller could face legal action anytime the problem is discovered by the buyer or under the 3 year statute of limitations to sue for breach of contract. That is just not right. It is a colossal undue burden on any private seller or dealer of a motorcycles.

This bill would have put motorcycle dealers and therefore their customers in an incredibly difficult position and at serious odds. Since both buyers and sellers are punished with fines for violations and dealers additionally, having to go before the Dealer Licensing Board for a violation of the proposed bill, risking more fines and possible suspension or revocation of their licenses, how can this not be classified as an undue burden?

As mentioned for years CA has not required emissions testing for motorcycles newer than 1976. So, we also would have had the problem of litigation costs trying to prove in court that Colorado had violated Section 177 of the Clean Air Act as our only remedy if the legislature refused to address the problem.

So, after a 3 month battle with the Attorney General's Office, Legislative legal Services and the sponsors, they finally "got it" and removed motorcycles from the bill as we had long ago requested.

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Motorcycles will continue to remain under the existing EPA antitampering statute in place for decades not the new and “better” Colorado antitampering statute.

On a final note, we pointed out to the proponents that they made no accommodation in the bill for vehicle repairs. That removing any emissions device or component was illegal in the original bill even for repair purposes.

SB22-009

Concerning Catalytic Converters and in Connection therewith, Enacting Measures to Address the Theft of catalytic Converters. Addresses recyclers, junkyards and any wholesale purchaser of precious metals from a cat (except dealers) to take certain measures to identify and catalogue their sellers to be identified by photo, license plate, name etc. Description of the vehicle the cat is from is also required. Essentially a registration book on sellers to catch stolen cats in the process of selling them or their precious metals. Motor vehicle dealers were removed from these requirements upon request of PDAC.

The public still is required to provide their identifying information when selling a used detached cat or its metals to one of the entities described does need to provide the information requested.

The original bill had serious problems. Again, after much discussion, it was explained that if a shop or private party removes a catalytic converter to repair another component of the motorcycle (or car or truck), the reinstallation was made illegal (no difference in install or reinstall). This was fixed and cats are now referred to for this legislation as “detached cats.” Also adds additional penalties to chop shops for theft of catalytic converters.

HB22-1217

Concerning Measures to prevent Catalytic Converter Theft, and, in Connection therewith, Making an Appropriation. State Patrol is to create a form that the purchasers of converters and the platinum metals group metals must fill out with information regarding the sellers, much like the registration or journal required of recyclers and junkyards in SB22-009 to be reviewed annually by the State Patrol.

Creates a theft prevention authority within the State Patrol. Creates grants for public awareness of cat thefts, financial assistance to individuals who have had their cats stolen for replacement purposes (now you can see why we argued to make sure the more abundant and less expensive cats be made available.