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## ***Frequently Asked Questions about Aftermarket Exhaust Systems for Motorcycles and ATVs In California***

This document contains the Motorcycle Industry Council's interpretation of California law and regulations related to aftermarket exhaust systems. MIC has prepared this document in an effort to clarify related issues for dealers in California. Please contact [memberservices@mic.org](mailto:memberservices@mic.org) with any questions.

### ***What exhaust systems and slip-on mufflers can a California dealer sell or install without violating California air pollution control requirements?***

Aftermarket exhaust systems that can legally be sold under California's air pollution control requirements are (1) systems that are designated "replacement parts," (2) systems considered "modified parts" for which an Executive Order has been issued, and (3) systems only for use on "racing vehicles" that have been adequately identified as such.

### ***What exhaust systems and slip-on mufflers are considered "replacement parts"?***

Under California Air Resources Board (CARB) regulations, "Replacement parts" are parts that have the same effect on emissions as the original equipment part that they are intended to replace. In the case of exhaust systems for motorcycles and ATVs, CARB considers aftermarket exhaust systems to be replacement parts if either of the following conditions is met:

1. The vehicle was not originally equipped with a catalyst and all emission controls originally connected to the exhaust system are reconnected to the aftermarket exhaust system and are functioning properly. (It is rare for other emission controls to be connected to a non-catalyst motorcycle or ATV exhaust system, but examples include an exhaust gas oxygen sensor or an air injection system.)
2. The vehicle was originally equipped with one or more catalysts, but the catalyst(s) are retained and all emission controls originally connected to the exhaust system (e.g., an oxygen sensor) are reconnected to the aftermarket exhaust system and are functioning properly.

As long as they meet the above definition of "replacement parts," "slip-on" mufflers are legal for use in California unless the muffler being replaced contained a catalyst.

***How can I tell if a “modified” exhaust system has been approved?***

“Modified” parts are components that are designed to perform differently from original equipment components with respect to emissions control. Under CARB regulations, any exhaust system component that replaces an original equipment catalyst or eliminates a provision for an exhaust gas oxygen sensor or some other emissions control device connected to the exhaust system is a “modified” part.

Aftermarket part manufacturers are required to provide a label to identify modified parts that have been approved for sale. The label will indicate the manufacturer's name, device name and a valid Executive Order (E.O.) number assigned by CARB. The format of the E.O. number is D-xxx-xxx, where "xxx" is a series of designated numbers. The label is either affixed directly to the part itself or included with the part with instructions to install it in a visible location.

***When can I sell a “modified” exhaust system without a CARB label?***

Parts for “Racing Vehicles” may be sold under certain circumstances without CARB approval. Under Health and Safety Code Section 39048, the term “Racing vehicle” is defined to mean “a competition vehicle not used on public highways.” Under California Health and Safety Code Section 43001, air pollution control requirements do not apply to “racing vehicles.” Exhaust systems for competition vehicles not used on public highways are also exempt. CARB allows the marketing and sale of modified parts “for competition use only” provided an adequate disclaimer is used in any advertising and packaging.

It should be noted that the racing vehicle exemption for a modified part does not apply just because an exhaust system is designed to be used “off-road.” The anti-tampering provisions of California law also apply to motorcycles and ATVs designed exclusively for off-road use. Under the definition of “racing vehicle,” not being used on public highways isn’t sufficient; it also has to be used on “a competition vehicle.” The language describing a modified part intended for use on racing vehicles may read: “This product is legal for closed-course competition use only.”

It should be noted that the use of a disclaimer is not sufficient if a modified part is knowingly being sold for use for any non-competition use, such as use on public highways. CARB can be expected to claim that a violation has occurred if a dealer installs a part intended for competition use only on a motorcycle that is ridden away from the dealership. It is also good practice to require the purchasers of any parts intended for competition use only to sign a statement to the effect that “I understand that this part is legal for closed-course competition use only.”

***Can I sell an aftermarket exhaust system if I don’t know on what model it will be installed?***

Some aftermarket exhaust systems are legal for use on some models, but not on others. This situation exists when the same system fits two different models, one originally equipped with a catalyst and one not originally equipped with a catalyst. In this case, the system may be considered a “replacement part” when sold for use on a motorcycle not originally equipped with a catalyst and a CARB label is not required. It is therefore legal to sell the system as long as the system is advertised as legal for use in California only on certain, specifically identified models.

Ideally, the identification of the models that can legally use the system in California should also be on the packaging and installation instructions.

***Can I install an unapproved aftermarket exhaust system that was purchased by the owner from out of state?***

Installation of unapproved aftermarket exhaust systems is legal only if the systems are “replacement parts” or being installed on a motorcycle or ATV for competition use only.

***What aftermarket exhaust system sales records are California dealers required to maintain?***

California dealers are required to keep records for the retail sale of exhaust systems that have not been approved by CARB and any catalyst-equipped systems that have been approved by CARB. No recordkeeping requirements for dealers apply to “replacement parts” (e.g., slip-on systems). Records are required for parts sold for competition use only and any sale of modified parts that did not have a CARB label. The records must include date of sale, purchaser name and address, and vehicle model and work performed, if applicable. Such records must be open for reasonable inspection by CARB and maintained for four years from the date of sale or installation.

***What are the fines for selling unapproved aftermarket exhaust systems that were not for competition use only?***

The penalties levied for the sale of unapproved exhaust systems under the California Vehicle Code and the Health and Safety Code can be at least \$750 per sale. CARB will often claim an additional \$2,500 per sale under the Business and Professions Code for an “unlawful, unfair, or fraudulent business practice.”

***What noise regulations apply to aftermarket exhaust systems sold in California?***

The State of California does not require aftermarket exhaust systems for motorcycles or ATVs to meet any specific sound test prior to sale. There are federal regulations applicable to aftermarket exhaust systems for motorcycles that require the manufacturer to test for compliance and affix a label to the exhaust system specifying whether it meets the EPA noise standards or not. (Systems for competition use are exempt from the standards, but they must still be labeled.)

In spite of the federal requirements, EPA’s Office of Noise Abatement and Control was closed over 30 years ago and EPA claims that primary responsibility of addressing noise issues was transferred to State and local governments. Since the test procedure incorporated in the EPA regulations is not feasible for use by state and local governments, in-use enforcement by state and local agencies usually involves testing a stationary vehicle with a variation of the SAE J1287 test procedure for off-highway vehicles. Beginning in 2013, highway motorcycles are subject to citation under a new state law if they are not equipped with an exhaust system that contains the label required by the EPA noise regulations. However, this requirement only applies to motorcycles and exhaust systems that are manufactured and sold as of January 1, 2013.