

## Assembly Bill No. 2032

### CHAPTER 418

An act to add Sections 149.4, 149.5, and 149.6 to the Streets and Highways Code, relating to transportation.

[Approved by Governor September 9, 2004. Filed with Secretary of State September 9, 2004.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2032, Dutra. HOT lanes: demonstration projects.

Existing law authorizes the Department of Transportation or local agencies with respect to highways under their respective jurisdictions to designate certain lanes for exclusive use by high-occupancy vehicles (HOVs). Existing law also authorizes the San Diego Association of Governments (SANDAG) to conduct, administer, and operate a value pricing and transit development program on a portion of Interstate 15 in San Diego County, under which single-occupant vehicles may use designated HOV lanes at certain times of day upon obtaining a permit and paying a fee, otherwise known as a "high-occupancy toll (HOT) lane."

This bill would authorize SANDAG, the Sunol Smart Carpool Lane Joint Powers Authority, the Santa Clara Valley Transportation Authority, and the Alameda County Congestion Management Agency to undertake similar value pricing programs involving various other HOT lanes under the jurisdiction of these sponsoring agencies. The bill would require net toll revenue generated by each program after payment of direct expenses to be allocated to the construction of high-occupancy vehicle facilities and the improvement of transit services pursuant to an expenditure plan adopted by the sponsoring agency. The bill would authorize the operation of the program by each agency for a period not to exceed 4 years after the agency first collects revenues for any of the authorized corridors, and would require a report to the Legislature by each sponsoring agency within 3 years. The bill would enact other related provisions.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares all of the following:

(a) High-occupancy toll (HOT) lanes allow single-occupant vehicles to access a high-occupancy vehicle (HOV) lane during peak congestion periods in exchange for paying an electronically collected fee. HOT lane



facilities have been implemented and proven successful on freeways in California and elsewhere.

(b) HOT lanes provide an additional choice for users on occasions when saving time is of value to them. Research has illustrated that utilizing an HOV lane for a fee with assured reliable time savings is valuable to persons across the income spectrum. The income profile of HOT lane users does not differ greatly from that of adjacent mixed-flow lanes.

(c) HOT lanes create an alternative mechanism for financing transportation projects. Revenue generated from HOT lanes is used for transit services, highway maintenance, and other improvement within the HOT lane corridor.

(d) By providing the consumer a choice of paying a direct user fee for utilizing the unused capacity of the transportation system during peak periods, HOT lanes establish an equitable means of assessing a fee that is directly related to the burden placed on the transportation system.

(e) Toll collection for HOT lanes should be entirely by electronic means, and in accordance with Section 27565 of the Streets and Highways Code, which requires the use of equipment that is interoperable with electronic toll collection systems currently operating in California.

(f) HOT lanes increase the efficiency of the transportation system by taking advantage of existing capacity without forfeiting the congestion mitigation and air quality benefits provided by HOV lanes.

(g) Revenue from HOT lane operations would be reinvested in projects and services that provide traffic congestion relief in the HOT lane corridor.

SEC. 2. Section 149.4 is added to the Streets and Highways Code, to read:

149.4. (a) (1) Notwithstanding Sections 149 and 30800 of this code, and Section 21655.5 of the Vehicle Code, the San Diego Association of Governments (SANDAG) may conduct, administer, and operate a value pricing and transit development demonstration program on a maximum of two transportation corridors in San Diego County.

(2) The program, under the circumstances described in subdivision (b), may direct and authorize the entry and use of high-occupancy vehicle lanes in corridors identified in paragraph (1) by single-occupant vehicles during peak periods, as defined by SANDAG, for a fee. The amount of the fee shall be established from time to time by SANDAG, and collected in a manner determined by SANDAG. A high-occupancy vehicle lane may only be operated as a high-occupancy toll (HOT) lane during the hours that the lane is otherwise restricted to use by high-occupancy vehicles.



(b) Implementation of the program shall ensure that Level of Service C, as measured by the most recent issue of the Highway Capacity Manual, as adopted by the Transportation Research Board, is maintained at all times in the high-occupancy vehicle lanes, except that subject to a written agreement between the department and SANDAG that is based on operating conditions of the high-occupancy vehicle lanes, Level of Service D shall be permitted on the high-occupancy vehicle lanes. If Level of Service D is permitted, the department and SANDAG shall evaluate the impacts of these levels of service of the high-occupancy vehicle lanes, and indicate any effects on the mixed-flow lanes. Continuance of Level of Service D operating conditions shall be subject to the written agreement between the department and SANDAG. Unrestricted access to the lanes by high-occupancy vehicles shall be available at all times. At least annually, the department shall audit the level of service during peak traffic hours and report the results of that audit at meetings of the program management team.

(c) Single-occupant vehicles that are certified or authorized by SANDAG for entry into, and use of, the high-occupancy vehicle lanes identified in paragraph (1) of subdivision (a) are exempt from Section 21655.5 of the Vehicle Code, and the driver shall not be in violation of the Vehicle Code because of that entry and use.

(d) SANDAG shall carry out the program in cooperation with the department pursuant to a cooperative agreement that addresses all matters related to design, construction, maintenance, and operation of state highway system facilities in connection with the value pricing and transit development demonstration program. With the assistance of the department, SANDAG shall establish appropriate traffic flow guidelines for the purpose of ensuring optimal use of the express lanes by high-occupancy vehicles without adversely affecting other traffic on the state highway system.

(e) (1) Agreements between SANDAG, the department, and the Department of the California Highway Patrol shall identify the respective obligations and liabilities of those entities and assign them responsibilities relating to the program. The agreements entered into pursuant to this section shall be consistent with agreements between the department and the United States Department of Transportation relating to this program and shall include clear and concise procedures for enforcement by the Department of the California Highway Patrol of laws prohibiting the unauthorized use of the high-occupancy vehicle lanes. The agreements shall provide for reimbursement of state agencies, from revenues generated by the program, federal funds specifically allocated to SANDAG for the program by the federal government, or other funding sources that are not otherwise available to state agencies for



transportation-related projects, for costs incurred in connection with the implementation or operation of the program.

(2) The revenue generated from the program shall be available to SANDAG for the direct expenses related to the operation (including collection and enforcement), maintenance, and administration of the demonstration program. Administrative expenses shall not exceed 3 percent of the revenues.

(3) All remaining revenue generated by the demonstration program shall be used in the corridor from which the revenue was generated exclusively for preconstruction, construction, and other related costs of high-occupancy vehicle facilities and the improvement of transit service, including, but not limited to, support for transit operations pursuant to an expenditure plan adopted by SANDAG.

(f) Not later than three years after SANDAG first collects revenues from any of the projects described in paragraph (1) of subdivision (a), SANDAG shall submit a report to the Legislature on its findings, conclusions, and recommendations concerning the demonstration program authorized by this section. The report shall include an analysis of the effect of the HOT lanes on the adjacent mixed-flow lanes and any comments submitted by the department and the Department of the California Highway Patrol regarding operation of the lane.

(g) The authority of SANDAG to conduct, administer, and operate a value pricing and transit development program on a transportation corridor pursuant to this section shall terminate on that corridor four years after SANDAG first collects revenues from the HOT lane project on that corridor. SANDAG shall notify the department by letter of the date that revenues are first collected on that corridor.

SEC. 3. Section 149.5 is added to the Streets and Highways Code, to read:

149.5. (a) (1) Notwithstanding Sections 149 and 30800 of this code, and Section 21655.5 of the Vehicle Code, the Sunol Smart Carpool Lane Joint Powers Authority (SSCLJPA), consisting of the Alameda County Congestion Management Agency, Alameda County Transportation Improvement Authority, and the Santa Clara Valley Transportation Authority, may conduct, administer, and operate a value pricing high-occupancy vehicle program on the Sunol Grade segment of State Highway Route 680 (Interstate 680) in Alameda and Santa Clara Counties and the Alameda County Congestion Management Agency may conduct, administer, and operate a program on a corridor within Alameda County for a maximum of two transportation corridors in Alameda County pursuant to this section in coordination with the Metropolitan Transportation Commission and consistent with Section 21655.6 of the Vehicle Code.



(2) The program, under the circumstances described in subdivision (b), may direct and authorize the entry and use of the high-occupancy vehicle lanes in the corridors identified in paragraph (1) by single-occupant vehicles for a fee. The fee structure for each corridor shall be established from time to time by the administering agency. A high-occupancy vehicle lane may only be operated as a high-occupancy toll (HOT) lane during the hours that the lane is otherwise restricted to use by high-occupancy vehicles.

(3) The administering agency for each corridor shall enter into a cooperative agreement with the Bay Area Toll Authority to operate and manage the electronic toll collection system.

(b) Implementation of the program shall ensure that Level of Service C, as measured by the most recent issue of the Highway Capacity Manual, as adopted by the Transportation Research Board, is maintained at all times in the high-occupancy vehicle lanes, except that subject to a written agreement between the department and the administering agency that is based on operating conditions of the high-occupancy vehicle lanes, Level of Service D shall be permitted on the high-occupancy vehicle lanes. If Level of Service D is permitted, the department and the administering agency shall evaluate the impacts of these levels of service of the high-occupancy vehicle lanes, and indicate any effects on the mixed-flow lanes. Continuance of Level of Service D operating conditions shall be subject to the written agreement between the department and the administering agency. Unrestricted access to the lanes by high-occupancy vehicles shall be available at all times. At least annually, the department shall audit the level of service during peak traffic hours and report the results of that audit at meetings of the administering agency.

(c) Single-occupant vehicles that are certified or authorized by the administering agency for entry into, and use of, the high-occupancy vehicle lanes identified in paragraph (1) of subdivision (a) are exempt from Section 21655.5 of the Vehicle Code, and the driver shall not be in violation of the Vehicle Code because of that entry and use.

(d) The administering agency shall carry out the program in cooperation with the department pursuant to a cooperative agreement that addresses all matters related to design, construction, maintenance, and operation of state highway system facilities in connection with the value pricing high-occupancy vehicle program. With the assistance of the department, the administering agency shall establish appropriate traffic flow guidelines for the purpose of ensuring optimal use of the express lanes by high-occupancy vehicles without adversely affecting other traffic on the state highway system.



(e) (1) Agreements between the administering agency, the department, and the Department of the California Highway Patrol shall identify the respective obligations and liabilities of those entities and assign them responsibilities relating to the program. The agreements entered into pursuant to this section shall be consistent with agreements between the department and the United States Department of Transportation relating to programs of this nature. The agreements shall include clear and concise procedures for enforcement by the Department of the California Highway Patrol of laws prohibiting the unauthorized use of the high-occupancy vehicle lanes, which may include the use of video enforcement. The agreements shall provide for reimbursement of state agencies, from revenues generated by the program, or other funding sources that are not otherwise available to state agencies for transportation-related projects, for costs incurred in connection with the implementation or operation of the program.

(2) The revenue generated from the program shall be available to the administering agency for the direct expenses related to the operation (including collection and enforcement), maintenance, and administration of the demonstration program. Administrative expenses shall not exceed 3 percent of the revenues.

(3) All net revenue generated by the program that remains after payment of direct expenses pursuant to paragraph (2) shall be allocated pursuant to an expenditure plan adopted biennially by the administering agency for transportation purposes within the program area. The expenditure plan may include funding for the following:

(A) The construction of high-occupancy vehicle facilities, including the design, preconstruction, construction, and other related costs of the northbound Interstate 680 Sunol Smart Carpool Lane project.

(B) Transit capital and operations that directly serve the authorized corridors.

(f) Not later than three years after the administering agency first collects revenues from the program authorized by this section, the administering agency shall submit a report to the Legislature on its findings, conclusions, and recommendations concerning the demonstration program authorized by this section. The report shall include an analysis of the effect of the HOT lanes on the adjacent mixed-flow lanes and any comments submitted by the department and the Department of the California Highway Patrol regarding operation of the lane.

(g) The authority of the administering agency to conduct, administer, and operate a value pricing high-occupancy vehicle program pursuant to this section shall terminate on that corridor four years after the administering agency first collects revenues from the HOT lane project



on that corridor. The administering agency shall notify the department by letter of the date that revenues are first collected on that corridor.

SEC. 4. Section 149.6 is added to the Streets and Highways Code, to read:

149.6. (a) Notwithstanding Sections 149 and 30800, and Section 21655.5 of the Vehicle Code, the Santa Clara Valley Transportation Authority (VTA) created by Part 12 (commencing with Section 100000) of the Public Utilities Code may conduct, administer, and operate a value pricing program on any two of the transportation corridors included in the high-occupancy vehicle lane system in Santa Clara County in coordination with the Metropolitan Transportation Commission and consistent with Section 21655.6 of the Vehicle Code.

(1) VTA, under the circumstances described in subdivision (b), may direct and authorize the entry and use of those high-occupancy vehicle lanes by single-occupant vehicles for a fee. The fee structure shall be established from time to time by the authority. The fee shall be collected in a manner determined by the authority. A high-occupancy vehicle lane may only be operated as a high-occupancy toll (HOT) lane during the hours that the lane is otherwise restricted to use by high-occupancy vehicles.

(2) VTA shall enter into a cooperative agreement with the Bay Area Toll Authority to operate and manage the electronic toll collection system.

(b) Implementation of the program shall ensure that Level of Service C, as measured by the most recent issue of the Highway Capacity Manual, as adopted by the Transportation Research Board, is maintained at all times in the high-occupancy vehicle lanes, except that subject to a written agreement between the department and VTA that is based on operating conditions of the high-occupancy vehicle lanes, Level of Service D shall be permitted on the high-occupancy vehicle lanes. If Level of Service D is permitted, the department and VTA shall evaluate the impacts of these levels of service of the high-occupancy vehicle lanes, and indicate any effects on the mixed-flow lanes. Continuance of Level of Service D operating conditions shall be subject to the written agreement between the department and VTA. Unrestricted access to the lanes by high-occupancy vehicles shall be available at all times. At least annually, the department shall audit the level of service during peak traffic hours and report the results of that audit at meetings of the program management team.

(c) Single-occupant vehicles that are certified or authorized by the authority for entry into, and use of, the high-occupancy vehicle lanes in Santa Clara County are exempt from Section 21655.5 of the Vehicle



Code, and the driver shall not be in violation of the Vehicle Code because of that entry and use.

(d) VTA shall carry out the program in cooperation with the department pursuant to a cooperative agreement that addresses all matters related to design, construction, maintenance, and operation of state highway system facilities in connection with the value pricing program. With the assistance of the department, VTA shall establish appropriate traffic flow guidelines for the purpose of ensuring optimal use of the express lanes by high-occupancy vehicles without adversely affecting other traffic on the state highway system.

(e) (1) Agreements between VTA, the department, and the Department of the California Highway Patrol shall identify the respective obligations and liabilities of those entities and assign them responsibilities relating to the program. The agreements entered into pursuant to this section shall be consistent with agreements between the department and the United States Department of Transportation relating to this program. The agreements shall include clear and concise procedures for enforcement by the Department of the California Highway Patrol of laws prohibiting the unauthorized use of the high-occupancy vehicle lanes, which may include the use of video enforcement. The agreements shall provide for reimbursement of state agencies, from revenues generated by the program, federal funds specifically allocated to the authority for the program by the federal government, or other funding sources that are not otherwise available to state agencies for transportation-related projects, for costs incurred in connection with the implementation or operation of the program.

(2) The revenues generated by the program shall be available to VTA for the direct expenses related to the operation (including collection and enforcement), maintenance, and administration of the program. The VTA's administrative costs in the operation of the program shall not exceed 3 percent of the revenues.

(3) All remaining revenue generated by the demonstration program shall be used in the corridor from which the revenues were generated exclusively for the preconstruction, construction, and other related costs of high-occupancy vehicle facilities and the improvement of transit service, including, but not limited to, support for transit operations pursuant to an expenditure plan adopted by the VTA.

(f) Not later than three years after VTA first collects revenues from any of the projects described in paragraph (1) of subdivision (a), VTA shall submit a report to the Legislature on its findings, conclusions, and recommendations concerning the demonstration program authorized by this section. The report shall include an analysis of the effect of the HOT lanes on adjacent mixed-flow lanes and any comments submitted by the



department and the Department of the California Highway Patrol regarding operation of the lanes.

(g) The authority of VTA to conduct, administer, and operate a value pricing high-occupancy vehicle program on a transportation corridor pursuant to this section shall terminate on that corridor four years after VTA first collects revenues from the HOT lane project on that corridor. VTA shall notify the department by letter of the date that revenues are first collected on that corridor.

