

**ASSEMBLY BILL**

**No. 2628**

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**Introduced by Assembly Member Pavley  
(Principal coauthor: Assembly Member Nakano)**

February 20, 2004

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An act to amend Section 5205.5 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2628, as introduced, Pavley. Vehicles: preferential lanes.

(1) Existing law permits the use of exclusive or preferential use of highway lanes or highway access ramps by ultra low-emission vehicles (ULEV) and super ultra-low emission vehicles (SULEV), that have displayed a distinctive decal, label, or other identifier issued by the Department of Motor Vehicles.

Existing law requires, if the Metropolitan Transportation Commission, serving as the Bay Area Toll Authority, grants toll-free and reduced-rate passage on toll bridges under that commission's jurisdiction to any vehicle pursuant to law, that commission grant the same toll-free and reduced-rate passage to vehicles displaying a valid ULEV or SULEV identifier issued pursuant to the above.

This bill would include vehicles that meet California's advanced technology partial zero-emission vehicle (AT PZEV) standard for criteria pollutant emissions that are rated at 45 miles per gallon or higher on the federal highway fuel economy test procedure, and gas/electric hybrid vehicles that were produced during the 2004 model year or earlier and have a combined fuel economy rating of 45 miles per gallon or greater according to the federal highway fuel economy test procedure and meet California's ultra-low emission vehicle (ULEV) standard for

exhaust emissions, within the scope of vehicles permitted to be issued a decal, label, or other identifier to use the exclusive or preferential highway lanes or highway access ramps and toll-free and reduced-rate passage on specified bridges. To the extent that this would increase the level of service of the commission, the bill would impose a state-mandated local program.

The bill would not allow a vehicle that meets the AT PZEV standards, except as specified, or a described gas/electric hybrid vehicle, to be issued a decal, label, or other identifier unless and until the federal government acts to approve the use of high occupancy vehicle lanes by hybrid vehicles regardless of the number of occupants.

(2) Existing law authorizes the Governor to remove individual high-occupancy vehicle lanes, a portion of those lanes, during periods of peak congestion from the ILEV and AT PZEV access after certain findings are made by the Department of Transportation.

This bill would grant the Department of Motor Vehicles that authority rather than the Governor.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 5205.5 of the Vehicle Code is amended  
 2 to read:  
 3 5205.5. (a) ~~For the purposes of implementing Section~~  
 4 ~~21655.9, beginning July 1, 2000, and through December 31, 2003,~~  
 5 ~~the department, in consultation with the Department of the~~  
 6 ~~California Highway Patrol, shall make available for issuance, for~~  
 7 ~~a fee determined by the department to be sufficient to reimburse~~



1 ~~the department for actual costs incurred pursuant to this section,~~  
2 ~~distinctive decals, labels, or other identifiers for vehicles that meet~~  
3 ~~California's ultra-low emission vehicle (ULEV) standard for~~  
4 ~~exhaust emissions and the federal ILEV evaporative emission~~  
5 ~~standard, as defined in Part 88 (commencing with Section~~  
6 ~~88.101-94) of Title 40 of the Code of Federal Regulations, in a~~  
7 ~~manner that clearly distinguishes them from other vehicles.~~

8 ~~(b) For the purposes of implementing Section 21655.9,~~  
9 ~~beginning January 1, 2004, and through December 31, 2007, the~~  
10 ~~department shall make available for issuance, for a fee determined~~  
11 ~~by the department to be sufficient to reimburse the department for~~  
12 ~~actual costs incurred pursuant to this section, distinctive decals,~~  
13 ~~labels, and other identifiers ~~for that clearly distinguish the~~~~  
14 ~~following vehicles from other vehicles :~~

15 ~~(1) A vehicle that ~~meet~~ meets California's super ultra-low~~  
16 ~~emission vehicle (SULEV) standard for exhaust emissions and the~~  
17 ~~federal inherently low-emission vehicle (ILEV) evaporative~~  
18 ~~emission standard, as defined in Part 88 (commencing with~~  
19 ~~Section 88.101-94) of Title 40 of the Code of Federal Regulations,~~  
20 ~~in a manner that clearly distinguishes them from other vehicles.~~

21 ~~(2) A vehicle that meets California's advanced technology~~  
22 ~~partial zero-emission vehicle (AT PZEV) standard for criteria~~  
23 ~~pollutant emissions that is rated at 45 miles per gallon or higher~~  
24 ~~on the federal highway fuel economy test procedure.~~

25 ~~(3) A gas/electric hybrid vehicle that was produced during the~~  
26 ~~2004 model year or earlier and has a combined fuel economy~~  
27 ~~rating of 45 miles per gallon or greater according to the federal~~  
28 ~~highway fuel economy test procedure, and meets California's~~  
29 ~~ultra-low emission vehicle (ULEV) standard for exhaust~~  
30 ~~emissions.~~

31 ~~(b) Neither an owner of a vehicle that meets the AT PZEV~~  
32 ~~standard, with the exception of a vehicle that meets the federal~~  
33 ~~ILEV standard, nor an owner of a gas/electric hybrid vehicle~~  
34 ~~described in paragraph (3) of subdivision (a), is entitled to a decal,~~  
35 ~~label, or other identifier pursuant to this section unless, and until,~~  
36 ~~the federal government acts to approve the use of high occupancy~~  
37 ~~vehicle lanes by hybrid vehicles regardless of the number of~~  
38 ~~occupants.~~

39 ~~(c) The department shall include a summary of the provisions~~  
40 ~~of this section on each motor vehicle registration renewal notice,~~



1 or on a separate insert, if space is available and the summary can  
2 be included without incurring additional printing or postage costs.

3 (d) The ~~Governor~~ *department* may remove individual  
4 high-occupancy vehicle (HOV) lanes, or portions of those lanes,  
5 during periods of peak congestion from the ~~HEV~~ access  
6 provisions provided in ~~subdivisions~~ *subdivision (a) and (b)*,  
7 following a finding by the Department of Transportation as  
8 follows:

9 (1) The lane, or portion thereof, exceeds a level of service C,  
10 as discussed in subdivision (b) of Section 65089 of the  
11 Government Code.

12 (2) The operation or projected operation of the vehicles  
13 described in ~~subdivisions~~ *subdivision (a) and (b)* in these lanes, or  
14 portions thereof, will significantly increase congestion.

15 The finding also shall demonstrate the infeasibility of  
16 alleviating the congestion by other means, including, but not  
17 limited to, reducing the use of the lane by noneligible vehicles, *or*  
18 further increasing vehicle occupancy, ~~or adding additional~~  
19 ~~capacity~~.

20 (e) For purposes of ~~subdivisions~~ *subdivision (a) and (b)*, the  
21 Department of the California Highway Patrol shall design and  
22 specify the placement of the decal, label, or other identifier on the  
23 vehicle. Each decal, label, or other identifier issued for a vehicle  
24 shall display a unique number, which number shall be printed on,  
25 or affixed to, the vehicle registration.

26 (f) If the Metropolitan Transportation Commission, serving as  
27 the Bay Area Toll Authority, grants toll-free and reduced-rate  
28 passage on toll bridges under its jurisdiction to any vehicle  
29 pursuant to Section 30102.5 of the Streets and Highways Code, it  
30 shall also grant the same toll-free and reduced-rate passage to  
31 vehicles ~~displaying a valid ULEV or SULEV identifier issued by~~  
32 ~~the department pursuant to subdivisions (a) and (b) that meet one~~  
33 *of the standards contained in subdivision (a)*.

34 (g) This section shall remain in effect only until January 1,  
35 2008, and as of that date is repealed, unless a later enacted statute,  
36 that is enacted before January 1, 2008, deletes or extends that date.

37 SEC. 2. Notwithstanding Section 17610 of the Government  
38 Code, if the Commission on State Mandates determines that this  
39 act contains costs mandated by the state, reimbursement to local  
40 agencies and school districts for those costs shall be made pursuant



1 to Part 7 (commencing with Section 17500) of Division 4 of Title  
2 2 of the Government Code. If the statewide cost of the claim for  
3 reimbursement does not exceed one million dollars (\$1,000,000),  
4 reimbursement shall be made from the State Mandates Claims  
5 Fund.

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