

AMENDED IN SENATE JUNE 8, 2004

AMENDED IN ASSEMBLY APRIL 1, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2628

**Introduced by Assembly Member Pavley
(Principal coauthor: Assembly Member Nakano)
(Coauthors: Assembly Members Chavez, Frommer, Hancock,
Harman, Lieber, Levine, Longville, Matthews, and Nation)
(Coauthor: Senator Denham)**

February 20, 2004

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2628, as amended, 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 *meet the federal ILEV emission standard, and 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 *a vehicle that was produced during the 2004 model year or earlier that meets California's ultra-low emission vehicle (ULEV) and federal ILEV emission standards*, a hybrid vehicle that meets California's advanced technology partial zero-emission vehicle (AT PZEV) standard for criteria pollutant emissions and has a 45 miles per gallon or greater fuel economy highway rating, and a hybrid vehicle that was produced during the 2004 model year or earlier ~~and~~ *that has a 45 miles per gallon or greater fuel economy highway rating and meets California's ultra-low emission vehicle (ULEV), super ultra-low emission vehicle (SULEV), or partial zero-emission vehicle (PZEV) standards 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 hybrid vehicle that meets the AT PZEV standards, except as specified, or a described 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 those vehicles regardless of the number of occupants.

The bill would prohibit the Department of Motor Vehicles from issuing more than 75,000 decals, labels, or other identifiers. The bill would require the Department of Motor Vehicles to stop issuing those decals, labels, or other identifiers, if the Department of Transportation makes a specified determination after at least 50,000 of those decals, labels, and identifiers are issued.

(2) Existing law authorizes the Governor to remove individual high-occupancy vehicle lanes, or 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 Transportation 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, the department shall make available for issuance, for a
5 fee determined by the department to be sufficient to reimburse the
6 department for actual costs incurred pursuant to this section,
7 distinctive decals, labels, and other identifiers that clearly
8 distinguish the following vehicles from other vehicles:

9 (1) A vehicle that meets California's super ultra-low emission
10 vehicle (SULEV) standard, *or a vehicle that was produced during*
11 *the 2004 model year or earlier that meets California's ultra-low*
12 *emission vehicle (ULEV) standard*, for exhaust emissions and the
13 federal inherently low-emission vehicle (ILEV) evaporative
14 emission standard, as defined in Part 88 (commencing with
15 Section 88.101-94) of Title 40 of the Code of Federal Regulations.

16 (2) A hybrid vehicle that meets California's advanced
17 technology partial zero-emission vehicle (AT PZEV) standard for
18 criteria pollutant emissions and has a 45 miles per gallon or greater
19 fuel economy highway rating.

20 (3) A hybrid vehicle that was produced during the 2004 model
21 year or earlier and has a 45 miles per gallon or greater fuel
22 economy highway rating, and meets California's ultra-low
23 emission vehicle (ULEV), super ultra-low emission vehicle
24 (SULEV), or partial zero-emission vehicle (PZEV) standards for
25 exhaust emissions.

26 (b) Neither an owner of a hybrid vehicle that meets the AT
27 PZEV standard, with the exception of a vehicle that meets the
28 federal ILEV standard, nor an owner of a hybrid vehicle described
29 in paragraph (3) of subdivision (a), is entitled to a decal, label, or
30 other identifier pursuant to this section unless, and until, the
31 federal government acts to approve the use of high-occupancy



1 vehicle lanes by vehicles of the types identified in paragraph 2 or
2 3 of subdivision (a), regardless of the number of occupants.

3 (c) The department shall include a summary of the provisions
4 of this section on each motor vehicle registration renewal notice,
5 or on a separate insert, if space is available and the summary can
6 be included without incurring additional printing or postage costs.

7 (d) The Department of Transportation may remove individual
8 high-occupancy vehicle (HOV) lanes, or portions of those lanes,
9 during periods of peak congestion from the access provisions
10 provided in subdivision (a), following a finding by the Department
11 of Transportation as follows:

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

15 (2) The operation or projected operation of the vehicles
16 described in subdivision (a) in these lanes, or portions thereof, will
17 significantly increase congestion.

18 The finding also shall demonstrate the infeasibility of
19 alleviating the congestion by other means, including, but not
20 limited to, reducing the use of the lane by noneligible vehicles, or
21 further increasing vehicle occupancy.

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

28 (f) (1) For purposes of subdivision (a), the department shall
29 issue no more than 75,000 distinctive decals, labels, or other
30 identifiers that clearly distinguish the vehicles specified in
31 paragraphs (1) to (3), inclusive, of subdivision (a). If the
32 Department of Transportation determines, after issuing at least
33 50,000 distinctive decals, labels, or other identifiers that clearly
34 distinguish the vehicles specified in paragraphs (1) to (3),
35 inclusive, of subdivision (a), that significant high-occupancy
36 vehicle lane breakdown has occurred throughout the state, the
37 department shall stop issuing those decals, labels, and other
38 identifiers.

39 ~~(2) For purposes of this subdivision, “significant~~
40 ~~high-occupancy vehicle lane breakdown” means _____.~~



1 (2) *In making a determination that significant high-occupancy*
2 *vehicle lane breakdown has occurred, the Department of*
3 *Transportation shall consider the following factors in the HOV*
4 *lane:*

- 5 (A) *Reduction in level of service.*
- 6 (B) *Sustained stop-and-go conditions.*
- 7 (C) *Slower than average speed than the adjacent mixed flow*
8 *lanes.*
- 9 (D) *Consistent increase in travel time.*

10 (g) If the Metropolitan Transportation Commission, serving as
11 the Bay Area Toll Authority, grants toll-free and reduced-rate
12 passage on toll bridges under its jurisdiction to any vehicle
13 pursuant to Section 30102.5 of the Streets and Highways Code, it
14 shall also grant the same toll-free and reduced-rate passage to
15 vehicles displaying a valid identifier issued by the department
16 pursuant to subdivision (a).

17 (h) This section shall remain in effect only until January 1,
18 2008, and as of that date is repealed, unless a later enacted statute,
19 that is enacted before January 1, 2008, deletes or extends that date.

20 SEC. 2. Notwithstanding Section 17610 of the Government
21 Code, if the Commission on State Mandates determines that this
22 act contains costs mandated by the state, reimbursement to local
23 agencies and school districts for those costs shall be made pursuant
24 to Part 7 (commencing with Section 17500) of Division 4 of Title
25 2 of the Government Code. If the statewide cost of the claim for
26 reimbursement does not exceed one million dollars (\$1,000,000),
27 reimbursement shall be made from the State Mandates Claims
28 Fund.

