

AMENDED IN SENATE JULY 15, 2004

AMENDED IN SENATE JUNE 23, 2004

AMENDED IN SENATE JUNE 8, 2004

AMENDED IN ASSEMBLY APRIL 1, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2628**

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

February 20, 2004

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An act to amend ~~Section 5205.5~~ *Sections 5205.5 and 21655.9* 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 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 the federal ILEV emission standards, a hybrid vehicle or an alternative fuel 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 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 *for the specified hybrid vehicles*. 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 *for the specified hybrid vehicles*.

(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 require the Department of Transportation to undertake that duty rather than authorizing the Governor to undertake that duty.

(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 for exhaust emissions and the federal  
11 inherently low-emission vehicle (ILEV) evaporative emission  
12 standard, as defined in Part 88 (commencing with Section  
13 88.101-94) of Title 40 of the Code of Federal Regulations.

14 (2) A vehicle that was produced during the 2004 model year or  
15 earlier and meets California ultra-low emission vehicle (ULEV)  
16 standard for exhaust emissions and the federal ILEV standard.

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

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



1 (b) Neither an owner of a hybrid vehicle that meets the AT  
2 PZEV standard, with the exception of a vehicle that meets the  
3 federal ILEV standard, nor an owner of a hybrid vehicle described  
4 in paragraph (4) of subdivision (a), is entitled to a decal, label, or  
5 other identifier pursuant to this section unless, and until, the  
6 federal government acts to approve the use of high-occupancy  
7 vehicle lanes by vehicles of the types identified in paragraph (3)  
8 or (4) of subdivision (a), regardless of the number of occupants.

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

13 (d) The Department of Transportation shall remove individual  
14 high-occupancy vehicle (HOV) lanes, or portions of those lanes,  
15 during periods of peak congestion from the access provisions  
16 provided in subdivision (a), following a finding by the Department  
17 of Transportation as follows:

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

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

24 The finding also shall demonstrate the infeasibility of  
25 alleviating the congestion by other means, including, but not  
26 limited to, reducing the use of the lane by noneligible vehicles, or  
27 further increasing vehicle occupancy.

28 (e) For purposes of subdivision (a), the Department of the  
29 California Highway Patrol, *in consultation with the Department*  
30 *of Transportation*, shall design and specify the placement of the  
31 decal, label, or other identifier on the vehicle. Each decal, label,  
32 or other identifier issued for a vehicle shall display a unique  
33 number, which number shall be printed on, or affixed to, the  
34 vehicle registration.

35 (f) (1) For purposes of subdivision (a), the department shall  
36 issue no more than 75,000 distinctive decals, labels, or other  
37 identifiers that clearly distinguish the vehicles specified in  
38 ~~paragraphs (1) to (4), inclusive, of subdivision (a). If the~~  
39 ~~Department of Transportation determines, after issuing at least~~  
40 ~~50,000 distinctive decals, labels, or other identifiers that clearly~~



1 ~~distinguish the vehicles specified in paragraphs (1) to (4),~~  
2 ~~inclusive, of subdivision (a), that significant high-occupancy~~  
3 ~~vehicle lane breakdown has occurred throughout the state, the~~  
4 ~~department shall stop issuing those decals, labels, and other~~  
5 ~~identifiers. paragraphs (3) and (4) of subdivision (a).~~

6 (2) *The department shall notify the Department of*  
7 *Transportation immediately after the date on which the*  
8 *department has issued 50,000 decals, labels, and other identifiers*  
9 *under this section for the vehicles described in paragraphs (3) and*  
10 *(4) of subdivision (a).*

11 (3) *The Department of Transportation shall determine whether*  
12 *significant high-occupancy vehicle lane breakdown has occurred*  
13 *throughout the state, in accordance with the following timeline:*

14 (A) *For lanes that are nearing capacity, the Department of*  
15 *Transportation shall make the determination not later than 90*  
16 *days after the date provided by the department under paragraph*  
17 *(2).*

18 (B) *For lanes that are not nearing capacity, the Department of*  
19 *Transportation shall make the determination not later than 180*  
20 *days after the date provided by the department under paragraph*  
21 *(2).*

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

26 (A) *Reduction in level of service.*

27 (B) *Sustained stop-and-go conditions.*

28 (C) *Slower than average speed than the adjacent mixed flow*  
29 *lanes.*

30 (D) *Consistent increase in travel time.*

31 (5) *After making the determinations pursuant to*  
32 *subparagraphs (A) and (B) of paragraph (3), if the Department of*  
33 *Transportation determines that significant high-occupancy*  
34 *vehicle lane breakdown has occurred throughout the state, the*  
35 *Department of Transportation shall immediately notify the*  
36 *department of that determination, and the department, on the date*  
37 *of receiving that notification, shall discontinue issuing the decals,*  
38 *labels, or other identifiers for the vehicles described in paragraphs*  
39 *(3) and (4) of subdivision (a).*



1 (g) If the Metropolitan Transportation Commission, serving as  
2 the Bay Area Toll Authority, grants toll-free and reduced-rate  
3 passage on toll bridges under its jurisdiction to any vehicle  
4 pursuant to Section 30102.5 of the Streets and Highways Code, it  
5 shall also grant the same toll-free and reduced-rate passage to  
6 vehicles displaying a valid identifier issued by the department  
7 pursuant to subdivision (a).

8 (h) This section shall remain in effect only until January 1,  
9 2008, and as of that date is repealed, unless a later enacted statute,  
10 that is enacted before January 1, 2008, deletes or extends that date.

11 SEC. 2. *Section 21655.9 of the Vehicle Code is amended to*  
12 *read:*

13 21655.9. (a) Whenever the Department of Transportation  
14 authorizes or permits exclusive or preferential use of highway  
15 lanes or highway access ramps for high-occupancy vehicles  
16 pursuant to Section 21655.5, the use of those lanes or ramps shall  
17 also be extended to vehicles that are issued distinctive decals,  
18 labels, or other identifiers pursuant to Section 5205.5 regardless of  
19 vehicle occupancy or ownership.

20 (b) No person shall drive a vehicle described in ~~subdivisions (a)~~  
21 ~~and (b)~~ *subdivision (a)* of Section 5205.5 with a single occupant  
22 upon a high-occupancy vehicle lane pursuant to this section unless  
23 the decal, label, or other identifier issued pursuant to Section  
24 5205.5 ~~are~~ *is* properly displayed on the vehicle, and the vehicle  
25 registration described in Section 5205.5 is with the vehicle.

26 (c) No person shall operate or own a vehicle displaying a decal,  
27 label, or other identifier, as described in Section 5205.5, if that  
28 decal, label, or identifier was not issued for that vehicle pursuant  
29 to Section 5205.5. A violation of this subdivision is a  
30 misdemeanor.

31 (d) *If the provisions in Section 5205.5 authorizing the*  
32 *department to issue decals, labels, or other identifiers to hybrid*  
33 *and alternative fuel vehicles are repealed, vehicles displaying*  
34 *those decals, labels, or other identifiers shall not access*  
35 *high-occupancy vehicle lanes without meeting the occupancy*  
36 *requirements otherwise applicable to those lanes.*

37 (e) This section shall remain in effect only until January 1,  
38 2008, and as of that date is repealed, unless a later enacted statute,  
39 that is enacted before January 1, 2008, deletes or extends that date.



1     *SEC. 3.* Notwithstanding Section 17610 of the Government  
2 Code, if the Commission on State Mandates determines that this  
3 act contains costs mandated by the state, reimbursement to local  
4 agencies and school districts for those costs shall be made pursuant  
5 to Part 7 (commencing with Section 17500) of Division 4 of Title  
6 2 of the Government Code. If the statewide cost of the claim for  
7 reimbursement does not exceed one million dollars (\$1,000,000),  
8 reimbursement shall be made from the State Mandates Claims  
9 Fund.

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