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AMENDED IN SENATE AUGUST 17, 2004
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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

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

(Coauthor: Senator Alarcon)

February 20, 2004

An act to amend 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~~. *The bill would permit certain of those vehicles described above that are registered to an address in the 9-county San Francisco Bay region, as described, to use the toll-free and reduced-rate passage privilege on the specified bridges only if the owner of the vehicle has obtained an automatic vehicle identification account, as specified.* 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 require the State Air Resources Board to publish and maintain ~~certain definitions~~ and a listing of all vehicles eligible for participation in the above-described programs.

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 50,000 of those decals, labels, and identifiers are issued for the specified hybrid vehicles.

The bill would, if the automatic vehicle identification system readers on all high-occupancy vehicle lanes on all of the specific toll bridges are not fully operational and fully funded with bridge tolls controlled by the Bay Area Toll Authority within 90 days of the federal government approval described above, the Metropolitan Transportation Commission, acting as the Bay Area Toll Authority, would be required to grant toll-free and reduced-rate passage to all vehicles displaying an identifier issued by the department and the department would not be able to require documentation that the owner of a vehicle registered to an address in the identified region has obtained an automatic vehicle identification system account as a condition to the issuance of an identifier.

(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:



1 5205.5. (a) For the purposes of implementing Section
2 21655.9, the department shall make available for issuance, for a
3 fee determined by the department to be sufficient to reimburse the
4 department for the actual costs incurred pursuant to this section,
5 distinctive decals, labels, and other identifiers that clearly
6 distinguish the following vehicles from other vehicles:

7 (1) A vehicle that meets California's super ultra-low emission
8 vehicle (SULEV) standard for exhaust emissions and the federal
9 inherently low-emission vehicle (ILEV) evaporative emission
10 standard, as defined in Part 88 (commencing with Section
11 88.101-94) of Title 40 of the Code of Federal Regulations.

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

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

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

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

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

36 (d) The Department of Transportation shall remove individual
37 high-occupancy vehicle (HOV) lanes, or portions of those lanes,
38 during periods of peak congestion from the access provisions
39 provided in subdivision (a), following a finding by the Department
40 of Transportation as follows:



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

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

7 The finding also shall demonstrate the infeasibility of
8 alleviating the congestion by other means, including, but not
9 limited to, reducing the use of the lane by noneligible vehicles, or
10 further increasing vehicle occupancy.

11 (e) The State Air Resources Board shall publish and maintain
12 ~~the following:~~

13 ~~(1) Definitions of the terms “hybrid,” “hybrid-powered~~
14 ~~vehicles,” “PZEV,” and “AT PZEV.” As advances in these~~
15 ~~vehicles and technologies occur, and as new models meeting these~~
16 ~~definitions are introduced by manufacturers licensed to do~~
17 ~~business in this state, the board shall revise and update these~~
18 ~~definitions.~~

19 ~~(2) A~~ a listing of all vehicles eligible for participation in the
20 programs described in this section. The board shall provide that
21 listing to the department.

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

29 (g) (1) For purposes of subdivision (a), the department shall
30 issue no more than 75,000 distinctive decals, labels, or other
31 identifiers that clearly distinguish the vehicles specified in
32 paragraphs (3) and (4) of subdivision (a).

33 (2) The department shall notify the Department of
34 Transportation immediately after the date on which the
35 department has issued 50,000 decals, labels, and other identifiers
36 under this section for the vehicles described in paragraphs (3) and
37 (4) of subdivision (a).

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



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

4 (B) For lanes that are not nearing capacity, the Department of
5 Transportation shall make the determination not later than 180
6 days after the date provided by the department under paragraph
7 (2).

8 (4) In making the determination that significant
9 high-occupancy vehicle lane breakdown has occurred, the
10 Department of Transportation shall consider the following factors
11 in the HOV lane:

12 (A) Reduction in level of service.

13 (B) Sustained stop-and-go conditions.

14 (C) Slower than average speed than the adjacent mixed flow
15 lanes.

16 (D) Consistent increase in travel time.

17 (5) After making the determinations pursuant to subparagraphs
18 (A) and (B) of paragraph (3), if the Department of Transportation
19 determines that significant high-occupancy vehicle lane
20 breakdown has occurred throughout the state, the Department of
21 Transportation shall immediately notify the department of that
22 determination, and the department, on the date of receiving that
23 notification, shall discontinue issuing the decals, labels, or other
24 identifiers for the vehicles described in paragraphs (3) and (4) of
25 subdivision (a).

26 (h) 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~~ *a vehicle displaying an identifier*
32 *issued by the department pursuant to paragraph (1) or (2) of*
33 *subdivision (a) and to a vehicle displaying a valid identifier issued*
34 *by the department pursuant to paragraph (3) or (4) of subdivision*
35 *(a) if either of the following apply:*

36 (1) *The vehicle is registered to an address outside of the region*
37 *identified in Section 66502 of the Government Code.*

38 (2) *If the vehicle is registered to an address inside the region,*
39 *the owner of the vehicle complies with subdivision (i) unless*
40 *subdivision (j) is applicable..*



1 (i) *An owner of a vehicle specified in paragraph (3) or (4) of*
2 *subdivision (a) whose vehicle is registered to an address in the*
3 *region identified in Section 66502 of the Government Code and*
4 *who seeks a vehicle identifier under subdivision (a) shall obtain an*
5 *account to operate within the automatic vehicle identification*
6 *system described in Section 27565 of the Streets and Highways*
7 *Code and shall submit to the department a form, approved by the*
8 *department and issued by the Bay Area Toll Authority, that*
9 *contains the vehicle owner's name, the license plate number and*
10 *vehicle identification number of the vehicle, the vehicle make and*
11 *year model, and the automatic vehicle identification system*
12 *account number, as a condition to obtaining a vehicle identifier*
13 *pursuant to subdivision (a) that allows for the use of that vehicle*
14 *in high-occupancy vehicle lanes regardless of the number of*
15 *occupants.*

16 (j) *If the automatic vehicle identification system readers on all*
17 *high-occupancy vehicle lanes on all of the toll bridges identified*
18 *in subdivision (a) of Section 30910 of the Streets and Highways*
19 *Code are not fully operational and fully funded with bridge tolls*
20 *controlled by the Bay Area Toll Authority within 90 days of the*
21 *federal government approval described in subdivision (b), then*
22 *subdivision (i) shall not be applicable and both of the following*
23 *shall apply:*

24 (1) *The Metropolitan Transportation Commission, acting as*
25 *the Bay Area Toll Authority, shall grant toll-free and reduced-rate*
26 *passage to all vehicles displaying an identifier issued by the*
27 *department pursuant to subdivision (a).*

28 (2) *The department shall not require documentation that the*
29 *owner of a vehicle registered to an address in the region identified*
30 *in Section 66502 of the Government Code has obtained an*
31 *automatic vehicle identification system account as a condition to*
32 *the issuance of an identifier under subdivision (a).*

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

36 SEC. 2. Section 21655.9 of the Vehicle Code is amended to
37 read:

38 21655.9. (a) Whenever the Department of Transportation
39 authorizes or permits exclusive or preferential use of highway
40 lanes or highway access ramps for high-occupancy vehicles



1 pursuant to Section 21655.5, the use of those lanes or ramps shall
2 also be extended to vehicles that are issued distinctive decals,
3 labels, or other identifiers pursuant to Section 5205.5 regardless of
4 vehicle occupancy or ownership.

5 (b) No person shall drive a vehicle described in subdivision (a)
6 of Section 5205.5 with a single occupant upon a high-occupancy
7 vehicle lane pursuant to this section unless the decal, label, or other
8 identifier issued pursuant to Section 5205.5 is properly displayed
9 on the vehicle, and the vehicle registration described in Section
10 5205.5 is with the vehicle.

11 (c) No person shall operate or own a vehicle displaying a decal,
12 label, or other identifier, as described in Section 5205.5, if that
13 decal, label, or identifier was not issued for that vehicle pursuant
14 to Section 5205.5. A violation of this subdivision is a
15 misdemeanor.

16 (d) If the provisions in Section 5205.5 authorizing the
17 department to issue decals, labels, or other identifiers to hybrid and
18 alternative fuel vehicles are repealed, vehicles displaying those
19 decals, labels, or other identifiers shall not access high-occupancy
20 vehicle lanes without meeting the occupancy requirements
21 otherwise applicable to those lanes.

22 (e) This section shall remain in effect only until January 1,
23 2008, and as of that date is repealed, unless a later enacted statute,
24 that is enacted before January 1, 2008, deletes or extends that date.

25 SEC. 3. Notwithstanding Section 17610 of the Government
26 Code, if the Commission on State Mandates determines that this
27 act contains costs mandated by the state, reimbursement to local
28 agencies and school districts for those costs shall be made pursuant
29 to Part 7 (commencing with Section 17500) of Division 4 of Title
30 2 of the Government Code. If the statewide cost of the claim for
31 reimbursement does not exceed one million dollars (\$1,000,000),
32 reimbursement shall be made from the State Mandates Claims
33 Fund.

