

**Introduced by Senator Yee**

February 27, 2009

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

LEGISLATIVE COUNSEL'S DIGEST

SB 535, as introduced, Yee. Vehicles: HOV lanes.

Existing law authorizes the Department of Transportation to designate certain lanes for the exclusive use of high-occupancy vehicles (HOVs), which lanes may also be used, until January 1, 2011, or until the Secretary of State receives a specified notice, by certain low-emission, hybrid, or alternative fuel vehicles not carrying the requisite number of passengers otherwise required for the use of an HOV lane, if the vehicle displays a valid identifier.

This bill would revise that provision to provide that it shall remain in effect only until the Secretary of State receives that specified notice.

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

*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 21655.9,
- 4 the department shall make available for issuance, for a fee
- 5 determined by the department to be sufficient to reimburse the
- 6 department for the actual costs incurred pursuant to this section,
- 7 distinctive decals, labels, and other identifiers that clearly
- 8 distinguish the following vehicles from other vehicles:

1 (1) A vehicle that meets California’s super ultra-low emission  
2 vehicle (SULEV) standard for exhaust emissions and the federal  
3 inherently low-emission vehicle (ILEV) evaporative emission  
4 standard, as defined in Part 88 (commencing with Section  
5 88.101-94) of Title 40 of the Code of Federal Regulations.

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

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

13 (4) A hybrid vehicle that was produced during the 2004  
14 model-year or earlier and has a 45 miles per gallon or greater fuel  
15 economy highway rating, and meets California’s ULEV, SULEV,  
16 or partial zero-emission vehicle (PZEV) standards.

17 (b) Neither an owner of a hybrid vehicle that meets the AT  
18 PZEV standard, with the exception of a vehicle that meets the  
19 federal ILEV standard, nor an owner of a hybrid vehicle described  
20 in paragraph (4) of subdivision (a), is entitled to a decal, label, or  
21 other identifier pursuant to this section unless, and until, the federal  
22 government acts to approve the use of high-occupancy vehicle  
23 (HOV) lanes by vehicles of the types identified in paragraph (3)  
24 or (4) of subdivision (a), regardless of the number of occupants.

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

29 (d) The Department of Transportation shall remove individual  
30 HOV lanes, or portions of those lanes, during periods of peak  
31 congestion from the access provisions provided in subdivision (a),  
32 following a finding by the Department of Transportation as follows:

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

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

39 The finding also shall demonstrate the infeasibility of alleviating  
40 the congestion by other means, including, but not limited to,

1 reducing the use of the lane by noneligible vehicles, or further  
2 increasing vehicle occupancy.

3 (e) The State Air Resources Board shall publish and maintain  
4 a listing of all vehicles eligible for participation in the programs  
5 described in this section. The board shall provide that listing to  
6 the department.

7 (f) For purposes of subdivision (a), the Department of the  
8 California Highway Patrol and the department, in consultation  
9 with the Department of Transportation, shall design and specify  
10 the placement of the decal, label, or other identifier on the vehicle.  
11 Each decal, label, or other identifier issued for a vehicle shall  
12 display a unique number, which number shall be printed on, or  
13 affixed to, the vehicle registration.

14 (g) (1) (A) Except as provided in subparagraph (B), for  
15 purposes of subdivision (a), the department shall issue no more  
16 than 85,000 distinctive decals, labels, or other identifiers that  
17 clearly distinguish the vehicles specified in paragraphs (3) and (4)  
18 of subdivision (a).

19 (B) The department may issue a decal, label, or other identifier  
20 for a vehicle that satisfies all of the following conditions:

21 (i) The vehicle is of a type identified in paragraph (3) or (4) of  
22 subdivision (a).

23 (ii) The owner of the vehicle is the owner of a vehicle for which  
24 a decal, label, or identifier described in subparagraph (A) was  
25 previously issued and that vehicle for which the decal, label, or  
26 identifier was previously issued is determined by the department,  
27 on the basis of satisfactory proof submitted by the owner to the  
28 department, to be a nonrepairable vehicle or a total loss salvage  
29 vehicle.

30 (iii) The owner of the vehicle applied for a decal, label, or other  
31 identifier pursuant to this subparagraph on or before March 31,  
32 2009, or within six months of the date on which the vehicle for  
33 which a decal, label, or identifier was previously issued is declared  
34 to be a nonrepairable vehicle or a total loss salvage vehicle,  
35 whichever date is later.

36 (2) The department shall notify the Department of Transportation  
37 immediately after the date on which the department has issued  
38 50,000 decals, labels, and other identifiers under this section for  
39 the vehicles described in paragraphs (3) and (4) of subdivision (a).

1 (3) The Department of Transportation shall determine whether  
2 significant HOV lane breakdown has occurred throughout the state,  
3 in accordance with the following timeline:

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

7 (B) For lanes that are not nearing capacity, the Department of  
8 Transportation shall make the determination not later than 180  
9 days after the date provided by the department under paragraph  
10 (2).

11 (4) In making the determination that significant HOV lane  
12 breakdown has occurred, the Department of Transportation shall  
13 consider the following factors in the HOV lane:

14 (A) Reduction in level of service.

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

16 (C) Slower than average speed than the adjacent mixed-flow  
17 lanes.

18 (D) Consistent increase in travel time.

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

27 (h) If the Metropolitan Transportation Commission, serving as  
28 the Bay Area Toll Authority, grants toll-free and reduced-rate  
29 passage on toll bridges under its jurisdiction to any vehicle pursuant  
30 to Section 30102.5 of the Streets and Highways Code, it shall also  
31 grant the same toll-free and reduced-rate passage to a vehicle  
32 displaying an identifier issued by the department pursuant to  
33 paragraph (1) or (2) of subdivision (a) and to a vehicle displaying  
34 a valid identifier issued by the department pursuant to paragraph  
35 (3) or (4) of subdivision (a) if the vehicle is registered to an address  
36 outside of the region identified in Section 66502 of the Government  
37 Code.

38 (i) An owner of a vehicle specified in paragraph (3) or (4) of  
39 subdivision (a) whose vehicle is registered to an address in the  
40 region identified in Section 66502 of the Government Code and

1 who seeks a vehicle identifier under subdivision (a) in order to  
2 have access to a HOV lane within the jurisdiction of the Bay Area  
3 Toll Authority shall do both of the following:

4 (1) Obtain and maintain an active account to operate within the  
5 automatic vehicle identification system described in Section 27565  
6 of the Streets and Highways Code and shall submit to the  
7 department a form, approved by the department and issued by the  
8 Bay Area Toll Authority, that contains the vehicle owner's name,  
9 the license plate number and vehicle identification number of the  
10 vehicle, the vehicle make and year model, and the automatic  
11 vehicle identification system account number, as a condition to  
12 obtaining a vehicle identifier pursuant to subdivision (a) that allows  
13 for the use of that vehicle in HOV lanes regardless of the number  
14 of occupants.

15 (2) Be eligible for toll-free or reduced-rate passage on toll  
16 bridges within the jurisdiction of the Bay Area Toll Authority only  
17 if, at time of passage, the vehicle meets the passenger occupancy  
18 rate requirement established for that toll-free or reduced-rate  
19 passage.

20 (j) If the Director of Transportation determines that federal law  
21 does not authorize the state to allow vehicles that are identified by  
22 distinctive decals, labels, or other identifiers on vehicles described  
23 in subdivision (a) to use highway lanes or highway access ramps  
24 for high-occupancy vehicles regardless of vehicle occupancy, the  
25 Director of Transportation shall submit a notice of that  
26 determination to the Secretary of State.

27 (k) This section shall remain in effect ~~only until January 1, 2011,~~  
28 ~~or~~ only until the date the Secretary of State receives the notice  
29 described in subdivision (j), ~~whichever occurs first,~~ and as of that  
30 date is repealed.