

Introduced by Senator Yee

February 27, 2009

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

LEGISLATIVE COUNSEL'S DIGEST

SB 535, as amended, Yee. Vehicles: ~~HOV~~ *High-occupancy vehicle* 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 additionally allow a vehicle that utilizes advanced lithium-ion battery plug-in technology not carrying the requisite number of passengers otherwise required for the use of an HOV lane to use those lanes, if the vehicle displays a valid identifier.

This bill would *also* revise that provision to provide that it shall remain in effect only until the Secretary of State receives that specified notice. *However, with respect to those vehicles, other than a vehicle that utilizes advanced lithium-ion battery plug-in technology, this provision shall be operative only until January 1, 2011, or only until the Secretary of State receives that specified notice, whichever occurs first.*

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. (a) It is the intent of the Legislature to provide*
2 *purchase incentives for the next generation of more technologically*
3 *advanced vehicles, such as plug-in vehicles utilizing lithium-ion*
4 *batteries, by giving these vehicles access to high-occupancy vehicle*
5 *(HOV) lanes.*

6 *(b) In enacting this act, the Legislature intends to do both of*
7 *the following:*

8 *(1) Phase out current qualifying hybrid vehicles and other*
9 *qualifying vehicles from the HOV access incentive program.*

10 *(2) Sunset current HOV qualifying hybrid vehicles and other*
11 *qualifying vehicles at the end of 2010, because the program has*
12 *served its purpose as evidenced by the wide variety of these*
13 *vehicles in the marketplace.*

14 ~~SECTION 1.~~

15 *SEC. 2. Section 5205.5 of the Vehicle Code is amended to*
16 *read:*

17 5205.5. (a) For the purposes of implementing Section 21655.9,
18 the department shall make available for issuance, for a fee
19 determined by the department to be sufficient to reimburse the
20 department for the actual costs incurred pursuant to this section,
21 distinctive decals, labels, and other identifiers that clearly
22 distinguish the following vehicles from other vehicles:

23 (1) A vehicle that meets California's super ultra-low emission
24 vehicle (SULEV) standard for exhaust emissions and the federal
25 inherently low-emission vehicle (ILEV) evaporative emission
26 standard, as defined in Part 88 (commencing with Section
27 88.101-94) of Title 40 of the Code of Federal Regulations.

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

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

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

1 (5) *A vehicle that utilizes advanced lithium-ion battery plug-in*
2 *technology. It is the intent of the Legislature that the distinctive*
3 *decal, label, or other identifier required by this section for a vehicle*
4 *described in this paragraph be green in color.*

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

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

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

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

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

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

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

35 (f) For purposes of subdivision (a), the Department of the
36 California Highway Patrol and the department, in consultation
37 with the Department of Transportation, shall design and specify
38 the placement of the decal, label, or other identifier on the vehicle.
39 Each decal, label, or other identifier issued for a vehicle shall

1 display a unique number, which number shall be printed on, or
2 affixed to, the vehicle registration.

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

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

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

12 (ii) The owner of the vehicle is the owner of a vehicle for which
13 a decal, label, or identifier described in subparagraph (A) was
14 previously issued and that vehicle for which the decal, label, or
15 identifier was previously issued is determined by the department,
16 on the basis of satisfactory proof submitted by the owner to the
17 department, to be a nonrepairable vehicle or a total loss salvage
18 vehicle.

19 (iii) The owner of the vehicle applied for a decal, label, or other
20 identifier pursuant to this subparagraph on or before March 31,
21 2009, or within six months of the date on which the vehicle for
22 which a decal, label, or identifier was previously issued is declared
23 to be a nonrepairable vehicle or a total loss salvage vehicle,
24 whichever date is later.

25 (2) The department shall notify the Department of Transportation
26 immediately after the date on which the department has issued
27 50,000 decals, labels, and other identifiers under this section for
28 the vehicles described in paragraphs (3) and (4) of subdivision (a).

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

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

35 (B) For lanes that are not nearing capacity, the Department of
36 Transportation shall make the determination not later than 180
37 days after the date provided by the department under paragraph
38 (2).

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

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

9 (5) After making the determinations pursuant to subparagraphs
10 (A) and (B) of paragraph (3), if the Department of Transportation
11 determines that significant HOV lane breakdown has occurred
12 throughout the state, the Department of Transportation shall
13 immediately notify the department of that determination, and the
14 department, on the date of receiving that notification, shall
15 discontinue issuing the decals, labels, or other identifiers for the
16 vehicles described in paragraphs (3) and (4) of subdivision (a).

17 (h) If the Metropolitan Transportation Commission, serving as
18 the Bay Area Toll Authority, grants toll-free and reduced-rate
19 passage on toll bridges under its jurisdiction to any vehicle pursuant
20 to Section 30102.5 of the Streets and Highways Code, it shall also
21 grant the same toll-free and reduced-rate passage to a vehicle
22 displaying an identifier issued by the department pursuant to
23 paragraph (1) or (2) of subdivision (a) and to a vehicle displaying
24 a valid identifier issued by the department pursuant to paragraph
25 (3) or (4) of subdivision (a) if the vehicle is registered to an address
26 outside of the region identified in Section 66502 of the Government
27 Code.

28 (i) An owner of a vehicle specified in paragraph (3) or (4) of
29 subdivision (a) whose vehicle is registered to an address in the
30 region identified in Section 66502 of the Government Code and
31 who seeks a vehicle identifier under subdivision (a) in order to
32 have access to a HOV lane within the jurisdiction of the Bay Area
33 Toll Authority shall do both of the following:

- 34 (1) Obtain and maintain an active account to operate within the
35 automatic vehicle identification system described in Section 27565
36 of the Streets and Highways Code and shall submit to the
37 department a form, approved by the department and issued by the
38 Bay Area Toll Authority, that contains the vehicle owner's name,
39 the license plate number and vehicle identification number of the
40 vehicle, the vehicle make and year model, and the automatic

1 vehicle identification system account number, as a condition to
2 obtaining a vehicle identifier pursuant to subdivision (a) that allows
3 for the use of that vehicle in HOV lanes regardless of the number
4 of occupants.

5 (2) Be eligible for toll-free or reduced-rate passage on toll
6 bridges within the jurisdiction of the Bay Area Toll Authority only
7 if, at time of passage, the vehicle meets the passenger occupancy
8 rate requirement established for that toll-free or reduced-rate
9 passage.

10 (j) If the Director of Transportation determines that federal law
11 does not authorize the state to allow vehicles that are identified by
12 distinctive decals, labels, or other identifiers on vehicles described
13 in subdivision (a) to use highway lanes or highway access ramps
14 for high-occupancy vehicles regardless of vehicle occupancy, the
15 Director of Transportation shall submit a notice of that
16 determination to the Secretary of State.

17 (k) (1) This section shall remain in effect only until the date the
18 Secretary of State receives the notice described in subdivision (j),
19 and as of that date is repealed.

20 (2) *However, with respect to a vehicle described in paragraph*
21 *(1), (2), (3), or (4) of subdivision (a), this section shall be operative*
22 *only until January 1, 2011, or only until the date the Secretary of*
23 *State receives the notice described in subdivision (j), whichever*
24 *occurs first.*