

AMENDED IN SENATE MAY 6, 2009  
AMENDED IN SENATE APRIL 30, 2009  
AMENDED IN SENATE APRIL 2, 2009

**SENATE BILL**

**No. 535**

---

---

**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: 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 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 meets California's super ultra-low exhaust emission standard and the federal inherently low-emission evaporative emission standard, 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. 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:

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  
22 model-year or earlier and has a 45 miles per gallon or greater fuel  
23 economy highway rating, and meets California's ULEV, SULEV,  
24 or partial zero-emission vehicle (PZEV) standards.

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

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

37 (c) The department shall include a summary of the provisions  
38 of this section on each motor vehicle registration renewal notice,

1 or on a separate insert, if space is available and the summary can  
2 be included without incurring additional printing or postage costs.

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

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

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

13 The finding also shall demonstrate the infeasibility of alleviating  
14 the congestion by other means, including, but not limited to,  
15 reducing the use of the lane by noneligible vehicles, or further  
16 increasing vehicle occupancy.

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

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

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

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

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

37 (ii) The owner of the vehicle is the owner of a vehicle for which  
38 a decal, label, or identifier described in subparagraph (A) was  
39 previously issued and that vehicle for which the decal, label, or  
40 identifier was previously issued is determined by the department,

1 on the basis of satisfactory proof submitted by the owner to the  
2 department, to be a nonrepairable vehicle or a total loss salvage  
3 vehicle.

4 (iii) The owner of the vehicle applied for a decal, label, or other  
5 identifier pursuant to this subparagraph on or before March 31,  
6 2009, or within six months of the date on which the vehicle for  
7 which a decal, label, or identifier was previously issued is declared  
8 to be a nonrepairable vehicle or a total loss salvage vehicle,  
9 whichever date is later.

10 (2) The department shall notify the Department of Transportation  
11 immediately after the date on which the department has issued  
12 50,000 decals, labels, and other identifiers under this section for  
13 the vehicles described in paragraphs (3) and (4) of subdivision (a).

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

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

20 (B) For lanes that are not nearing capacity, the Department of  
21 Transportation shall make the determination not later than 180  
22 days after the date provided by the department under paragraph  
23 (2).

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

27 (A) Reduction in level of service.

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

29 (C) Slower than average speed than the adjacent mixed-flow  
30 lanes.

31 (D) Consistent increase in travel time.

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

1 (h) 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 pursuant  
4 to Section 30102.5 of the Streets and Highways Code, it shall also  
5 grant the same toll-free and reduced-rate passage to a vehicle  
6 displaying an identifier issued by the department pursuant to  
7 paragraph (1) or (2) of subdivision (a) and to a vehicle displaying  
8 a valid identifier issued by the department pursuant to paragraph  
9 (3) or (4) of subdivision (a) if the vehicle is registered to an address  
10 outside of the region identified in Section 66502 of the Government  
11 Code.

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

18 (1) Obtain and maintain an active account to operate within the  
19 automatic vehicle identification system described in Section 27565  
20 of the Streets and Highways Code and shall submit to the  
21 department a form, approved by the department and issued by the  
22 Bay Area Toll Authority, that contains the vehicle owner's name,  
23 the license plate number and vehicle identification number of the  
24 vehicle, the vehicle make and year model, and the automatic  
25 vehicle identification system account number, as a condition to  
26 obtaining a vehicle identifier pursuant to subdivision (a) that allows  
27 for the use of that vehicle in HOV lanes regardless of the number  
28 of occupants.

29 (2) Be eligible for toll-free or reduced-rate passage on toll  
30 bridges within the jurisdiction of the Bay Area Toll Authority only  
31 if, at time of passage, the vehicle meets the passenger occupancy  
32 rate requirement established for that toll-free or reduced-rate  
33 passage.

34 (j) If the Director of Transportation determines that federal law  
35 does not authorize the state to allow vehicles that are identified by  
36 distinctive decals, labels, or other identifiers on vehicles described  
37 in subdivision (a) to use highway lanes or highway access ramps  
38 for high-occupancy vehicles regardless of vehicle occupancy, the  
39 Director of Transportation shall submit a notice of that  
40 determination to the Secretary of State.

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

4 (2) However, with respect to a vehicle described in paragraph  
5 (2), (3), or (4) of subdivision (a), this section shall be operative  
6 only until January 1, 2011, or only until the date the Secretary of  
7 State receives the notice described in subdivision (j), whichever  
8 occurs first.

O