

AMENDED IN ASSEMBLY JUNE 22, 2009

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~~ *Sections 5205.5, 21655.9, and 40000.13* of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 535, as amended, Yee. Vehicles: High-occupancy vehicle lanes.

~~Existing~~

(1) 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. A violation of provisions relating to HOV lane use by vehicles with those identifiers is a crime.

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.

The bill, between January 1, 2011, and January 1, 2015, would require the Department of Motor Vehicles to issue up to 65,000 identifiers to vehicles that meet California's enhanced advanced technology partial zero-emission vehicle (enhanced AT PZEV) standard and have a 65 miles per gallon or greater combined fuel economy rating, except the department's authorization to do so would end if the secretary receives the specified notice before then. The bill would authorize vehicles with that identifier to use HOV lanes until January 1, 2015, or until the Secretary of State receives a specified notice, whichever occurs first.

By extending and changing the definition of a crime, the bill would impose a state-mandated local program.

The bill would make technical and conforming changes.

(2) 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.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~no~~-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 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.

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

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

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

12 (5) *A vehicle that meets California's enhanced advanced*
13 *technology partial zero-emission vehicle (enhanced AT PZEV)*
14 *standard and has a 65 miles per gallon or greater combined fuel*
15 *economy rating.*

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

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

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

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

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

38 The finding also shall demonstrate the infeasibility of alleviating
39 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) (1) Except as provided in paragraph (2), for purposes of*
28 *paragraph (5) of subdivision (a), the department shall issue no*
29 *more than 65,000 distinctive decals, labels, or other identifiers*
30 *that clearly distinguish a vehicle specified in paragraph (5) of*
31 *subdivision (a).*

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

34 *(A) The vehicle is of a type identified in paragraph (5) of*
35 *subdivision (a).*

36 *(B) The owner of the vehicle is the owner of a vehicle for which*
37 *a decal, label, or other identifier described in paragraph (1) was*
38 *previously issued and that vehicle for which the decal, label, or*
39 *other identifier was previously issued is determined by the*
40 *department, on the basis of satisfactory proof submitted by the*

1 owner to the department, to be a nonrepairable vehicle or a total
2 loss salvage vehicle.

3 (C) The owner of the vehicle applied for a decal, label, or other
4 identifier pursuant to this paragraph within six months of the date
5 on which the vehicle for which a decal, label, or other identifier
6 was previously issued is declared to be a nonrepairable vehicle
7 or a total loss salvage vehicle.

8 ~~(h)~~

9 (i) If the Metropolitan Transportation Commission, serving as
10 the Bay Area Toll Authority, grants toll-free and reduced-rate
11 passage on toll bridges under its jurisdiction to any vehicle pursuant
12 to Section 30102.5 of the Streets and Highways Code, it shall also
13 grant the same toll-free and reduced-rate passage to a vehicle
14 displaying an identifier issued by the department pursuant to
15 paragraph (1) or (2) of subdivision (a) and to a vehicle displaying
16 a valid identifier issued by the department pursuant to paragraph
17 (3) or (4) of subdivision (a) if the vehicle is registered to an address
18 outside of the region identified in Section 66502 of the Government
19 Code.

20 ~~(i)~~

21 (j) An owner of a vehicle specified in paragraph (3) or (4) of
22 subdivision (a) whose vehicle is registered to an address in the
23 region identified in Section 66502 of the Government Code and
24 who seeks a vehicle identifier under subdivision (a) in order to
25 have access to a HOV lane within the jurisdiction of the Bay Area
26 Toll Authority shall do both of the following:

27 (1) Obtain and maintain an active account to operate within the
28 automatic vehicle identification system described in Section 27565
29 of the Streets and Highways Code and shall submit to the
30 department a form, approved by the department and issued by the
31 Bay Area Toll Authority, that contains the vehicle owner's name,
32 the license plate number and vehicle identification number of the
33 vehicle, the vehicle make and year model, and the automatic
34 vehicle identification system account number, as a condition to
35 obtaining a vehicle identifier pursuant to subdivision (a) that allows
36 for the use of that vehicle in HOV lanes regardless of the number
37 of occupants.

38 (2) Be eligible for toll-free or reduced-rate passage on toll
39 bridges within the jurisdiction of the Bay Area Toll Authority only
40 if, at time of passage, the vehicle meets the passenger occupancy

1 rate requirement established for that toll-free or reduced-rate
2 passage.

3 ~~(j)~~

4 (k) If the Director of Transportation determines that federal law
5 does not authorize the state to allow vehicles that are identified by
6 distinctive decals, labels, or other identifiers on vehicles described
7 in subdivision (a) to use highway lanes or highway access ramps
8 for high-occupancy vehicles regardless of vehicle occupancy, the
9 Director of Transportation shall submit a notice of that
10 determination to the Secretary of State.

11 ~~(k)~~

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

15 (2) However, with respect to a vehicle described in paragraph
16 (2), (3), or (4) of subdivision (a), this section shall be operative
17 only until January 1, 2011, or only until the date the Secretary of
18 State receives the notice described in subdivision~~(j)~~ (k), whichever
19 occurs first.

20 (3) *With respect to a vehicle described in paragraph (5) of*
21 *subdivision (a), this section shall become operative on January 1,*
22 *2011, and shall be operative only until January 1, 2015, or until*
23 *the date the Secretary of State receives the notice described in*
24 *subdivision (k), whichever occurs first.*

25 SEC. 2. *Section 21655.9 of the Vehicle Code is amended to*
26 *read:*

27 21655.9. (a) (1) Whenever the Department of Transportation
28 or a local authority authorizes or permits exclusive or preferential
29 use of highway lanes or highway access ramps for high-occupancy
30 vehicles pursuant to Section 21655.5, the use of those lanes or
31 ramps shall also be extended to vehicles that are issued distinctive
32 decals, labels, or other identifiers pursuant to Section 5205.5
33 regardless of vehicle occupancy or ownership.

34 (2) A local authority during periods of peak congestion shall
35 suspend for a lane the access privileges extended pursuant to
36 paragraph (1) for those vehicles issued distinctive decals, labels,
37 or other identifiers pursuant to Section 5205.5, if a periodic review
38 of lane performance by that local authority discloses both of the
39 following factors regarding the lane:

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

4 (B) The operation or projected operation of vehicles in the lane,
5 or a portion ~~thereof of the lane~~, will significantly increase
6 congestion.

7 (b) A person shall not drive a vehicle described in subdivision
8 (a) of Section 5205.5 with a single occupant upon a high-occupancy
9 vehicle lane pursuant to this section unless the decal, label, or other
10 identifier issued pursuant to Section 5205.5 is properly displayed
11 on the vehicle, and the vehicle registration described in Section
12 5205.5 is with the vehicle.

13 (c) A person shall not operate or own a vehicle displaying a
14 decal, label, or other identifier, as described in Section 5205.5, if
15 that decal, label, or identifier was not issued for that vehicle
16 pursuant to Section 5205.5. A violation of this subdivision is a
17 misdemeanor.

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

24 (e) *(1)* This section shall remain in effect only until ~~January 1,~~
25 ~~2011, or only until~~ the date that the Secretary of State receives the
26 notice described in subdivision ~~(f)~~ (k) of Section 5205.5, ~~whichever~~
27 ~~occurs first~~, and as of that date is repealed, ~~unless a later enacted~~
28 ~~statute, that is enacted before January 1, 2008, deletes or extends~~
29 ~~that date.~~

30 *(2)* *However, with respect to a vehicle described in paragraph*
31 *(2), (3), or (4) of subdivision (a) of Section 5205.5, this section*
32 *shall be operative only until January 1, 2011, or until the date the*
33 *Secretary of State receives the notice described in subdivision (k)*
34 *of Section 5205.5, whichever occurs first.*

35 *(3)* *With respect to a vehicle described in paragraph (5) of*
36 *subdivision (a) of Section 5205.5, this section shall become*
37 *operative on January 1, 2011, and shall be operative only until*
38 *January 1, 2015, or until the date the Secretary of State receives*
39 *the notice described in subdivision (k) of Section 5205.5, whichever*
40 *occurs first.*

1 SEC. 3. Section 40000.13 of the Vehicle Code, as amended by
2 Section 5 of Chapter 614 of the Statutes of 2006, is amended to
3 read:

4 40000.13. A violation of any of the following provisions is a
5 misdemeanor, and not an infraction:

- 6 (a) Section 16560, relating to interstate highway carriers.
- 7 (b) Sections 20002 and 20003, relating to duties at accidents.
- 8 (c) Section 21200.5, relating to riding a bicycle while under the
9 influence of an alcoholic beverage or any drug.
- 10 (d) *Subdivision (b) of Section 21651, ~~subdivision (b)~~*, relating
11 to wrong-way driving on divided highways.
- 12 (e) *Subdivision (c) of Section 21655.9, ~~subdivision (c)~~*, relating
13 to illegal use of decals, labels, or other identifiers.
- 14 (f) Section 22520.5, a second or subsequent conviction of an
15 offense relating to vending on or near freeways.
- 16 (g) Section 22520.6, a second or subsequent conviction of an
17 offense relating to roadside rest areas and vista points.
- 18 (h) This section shall remain in effect only until ~~January 1, 2011,~~
19 ~~or only until~~ the date that the Secretary of State receives the notice
20 from the Director of Transportation as described in Section 5205.5,
21 ~~whichever occurs first~~, and as of that date is repealed.

22 SEC. 4. Section 40000.13 of the Vehicle Code, as amended by
23 Section 6 of Chapter 614 of the Statutes of 2006, is amended to
24 read:

25 40000.13. A violation of any of the following provisions is a
26 misdemeanor, and not an infraction:

- 27 (a) Section 16560, relating to interstate highway carriers.
- 28 (b) Sections 20002 and 20003, relating to duties at accidents.
- 29 (c) Section 21200.5, relating to riding a bicycle while under the
30 influence of an alcoholic beverage or any drug.
- 31 (d) *Subdivision (b) of Section 21651, ~~subdivision (b)~~*, relating
32 to wrong-way driving on divided highways.
- 33 (e) Section 22520.5, a second or subsequent conviction of an
34 offense relating to vending on or near freeways.
- 35 (f) Section 22520.6, a second or subsequent conviction of an
36 offense relating to roadside rest areas and vista points.
- 37 (g) This section shall become operative on ~~January 1, 2011, or~~
38 ~~on~~ the date that the Secretary of State receives the notice from the
39 Director of Transportation as described in Section 5205.5;
40 ~~whichever occurs first~~.

1 *SEC. 5. No reimbursement is required by this act pursuant to*
2 *Section 6 of Article XIII B of the California Constitution because*
3 *the only costs that may be incurred by a local agency or school*
4 *district will be incurred because this act creates a new crime or*
5 *infraction, eliminates a crime or infraction, or changes the penalty*
6 *for a crime or infraction, within the meaning of Section 17556 of*
7 *the Government Code, or changes the definition of a crime within*
8 *the meaning of Section 6 of Article XIII B of the California*
9 *Constitution.*

O